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FREE PUBLIC OPINION. FREE SPEECH. FREE PRESS.
CHECKS AND BALANCES.
GOVERNMENT BY AND FOR THE PEOPLE.
LAW.
LIBERTY.
EQUALITY
FREE ASSEMBLY. FREE ASSOCIATION & COMMUNICATION
CONSTITUTION.
REPRESENTATION.
FREE PUBLIC EDUCATION.
BALLOT. UNIVERSAL SUFFRAGE.
NATURALIZATION.
PEACEABLE FOREIGN RELATIONS.
RIGHTS OF PROPERTY.
BANKRUPT LAWS.
RESPECT FOR RELIGION.
NO PERPETUITY.
HOMESTEAD EXEMPTION.
UNIVERSAL BROTHERHOOD OF MAN.
OBEDIENCE TO THE LAWS.
LOYALTY.
LEGAL POLITICAL IDEAS. IDEAS.
A. L. BANCROFT & CO. LITH. S.F.

A MANUAL

OF

AMERICAN IDEAS.

DESIGNED

1st. For the Use of Schools.
2d. For the Instruction of Foreigners seeking Naturalization.
3d. For the Use of Citizens.

BY

CASPAR T. HOPKINS, M.A.

"Thou shalt teach them diligently unto thy children, and thou shall talk of them when thou sittest in thine house, and when thou walkest by the way, and when thou liest down, and when thou risest up."

"And thou shall bind them for a sign upon thine hand, and they shall be as frontlets between thine eyes."—Deut. VI: 7, 8.

SECOND REVISED EDITION.

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DEDICATION.

To the True Idea of American Liberty.

An idea not born of race, not nurtured by prejudice, not limited by seas and mountains, nor fettered by language—a thought not suggestive of hereditary feuds, nor prone to slaughter the grandchildren of sires, who in times past struggled with our ancestors—but an idea born of nature and revelation, educated by the intuitions of common sense, unlimited as the brotherhood of man, inseparable from the highest forms of civilization—a thought which, germinating in the souls of a few, has made our country what it is, and if carefully cultured in the minds of the multitude, will blossom and bear forever the golden fruits of peace, charity, and good will to men—this little work is

Reverently inscribed, by

THE AUTHOR.

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A MANUAL

OF

AMERICAN IDEAS.

PREFACE.

A GOVERNMENT dependent for its existence upon the intelligence and purity of public opinion cannot long maintain itself unchanged, unless the ideas upon which it was founded be uniformly taught to each successive generation of the people.

Were the children of all citizens, whether native or foreign born, alike instructed in American principles, no apprehension for the integrity or perpetuity of the American system need disturb the reflections of the patriot.

But with the ballot in the hands of every man, and the destinies of the country committed to the control of the majority—be that majority native or foreign, educated or ignorant, liberal or prejudiced, black or white, Republican or Democratic—are we sure of either the integrity or the perpetuity of our institutions, unless the *principles which underlie them* are brought home to the conscious knowledge of the masses of the people?

Yet, what have we hitherto accomplished in popular political education? Grant that Story, Kent, Lieber, De Tocqueville, Duer, Bancroft, and many other able minds, have exhausted research in their learned addresses *to the educated;* how many of all who wield the ballot have read their works, or are capable of understanding them? Grant that the newspaper, the court-room, the political convention, the public meeting, the stump speech, the Fourth of July oration, are continually refracting some detached ray from the American system of thought; does the popular eye learn from these disconnected and often distorted

glimpses, to take in the full blaze of light which streams from the constellation of American ideas? Does the limited reading of the condensed history of our country, in the text books used in our public schools, give any adequate conception of the differences pervading our whole political and legal fabric as compared with those from which it was eliminated?

And how generally has the light of patriotism been dimmed or altogether hidden by the clouds of ignorance, prejudice, sectionalism, and above all, of party spirit! In the South, how slight must have been the popular appreciation of the fundamental principles of personal liberty, equality, free speech, free press, free assembly, free communication, free education, the dignity of labor, progress, and even loyalty, when all of these ideas were supplanted by theories suggested in the interests of aristocracy, and therefore utterly subversive of the whole American system! And in the North, how feeble the attachment to our "intellectual system of government" among those multitudes who, appreciating perhaps the *form* but not the *spirit* of our institutions, opposed by every means in their power all measures intended for the suppression of that rebellion whose success would have sounded the knell of American ideas!

Reading but little of history, preoccupied by the cares of life, misled by a partisan and often vicious newspaper press, misinformed by designing demagogues, conscious of the ills they bear, but regardless of others they know not of, how often do large masses of our citizens exhibit their indifference to the vital ideas of our system, by their exaltation of party above country, their preference of sectarian to national principles, their willingness, in fact, to barter their great inheritance for any mess of pottage commended to their temporary or fancied needs by the corrupt hands of traitors to American thought!

Such reflections as these, recurring at every election campaign during many years, have induced the following attempt so to collate and explain the salient points of our system, as to bring them within the comprehension of the youth of our public schools, and furnish the immigrant with a correct idea of what it means to become an American

citizen. The plan of the book differs from that of all other works on the subject that I have been able to find. It differs in its *object*, which is to explain the principles actuating the existing American order, rather than to state that order. It differs in its *method*, which is designed to *interest* the learner, not only by the use of a familiar and almost colloquial style, but by the arrangement and division of the topics on an original plan: by appeals to his own common sense, by reference to the laws of nature, and by quotations from the Bible. For the latter, I shall not insult the intelligent reader by offering an apology. I have sought to give "the truth, the whole truth, and nothing but the truth." As a treatise on natural philosophy would be of little value should it omit to treat of the law of gravitation, so would a work on American patriotism be radically defective if the Christianity which interpenetrates it were ignored. Europe unites the state with the *externals* of religion—America *owes* the state to its *spirit*.

By plain statements of propositions, of the arguments proving them, and of their counterparts in the old European principles of government, I have endeavored to pave the way for that examination of the forms of our constitution and laws (so ably analyzed in Townsend's, Sullivan's, Sheppard's and Mansfield's text books), which will be a more appetizing study after American principles have been impressed on the understanding. And this work aims to rouse the mind, whether of the youth, the foreigner or the native voter, to an *intelligent attachment to American ideas*, and thereby—should it be so fortunate as to attain a reasonable circulation—to do something to forestall in the future such terrible conflicts of opinion, as in the past have so nearly wrecked the ship of state among the breakers of civil war.

During the years whose few spare crumbs of time, fallen from the tables of business and family care, have been all I could devote to this labor, I have noticed in the daily press an occasional call for a school book that would instruct our youth in the elements of patriotism. Even in our higher seminaries, little or nothing is taught bearing upon the future status of the pupils as leaders of American opinion. Said the President of the Board of Regents of the University of California, in

his Commencement Address for 1871 :* "A lack in American colleges is the imperfect instruction imparted to students, in the origin and formation of our complex system of government, the philosophy of the distribution of powers and of jurisdiction, the limitations of power, the proper sphere and province of government, and the rights and duties of majorities and minorities; subjects of which no educated mind should be ignorant." The lack mentioned by the Governor is not attributable to the want of text-books, for there are many works written by experienced thinkers for the use of the higher seminaries. But if, nevertheless, this most important of all branches of education is neglected in the universities, what shall we say of the great mass of the common youth who never reach the college, and for whose use no text-book discussing anything more than the dry details of the Federal Constitution has yet been prepared ? How are these youth to learn the rights and duties of citizenship ? Who teaches them why a republic is preferable to a monarchy, or to place any value on the inestimable worth of free institutions ? Can it be said that the mass of teachers in the public schools themselves know anything clearly about American ideas ? How many voters are there—not only voters, but professed politicians, legislators, party leaders and edit. rs—who, so far as accurate information on this subject is concerned, are but blind leaders of the blind !

It is time, now that nearly a century of unrivaled progress and stability has crystallized the once bold theories of our original American thinkers into the highest known development of political and social science, that those theories should be taught everywhere, by all, and on all suitable occasions. It is time, now that the original American stock is fast losing itself in the perenially increasing tide of European immigration, that we should realize that it is not the *pedigree* but the *thoughts* of the man which make him an American. It is time, now that hydra-headed corruption consequent on wealth and luxury, and the influx of a preponderating foreign population, have in some places sunk our ancient principles almost out of sight, that we raise again the old

* Speech of Governor Haight.

standards before the eyes of all the people. It is now, during the peace which has succeeded the last arming of partisan hosts, and ere sectional or sectarian rancor can again don the armor of treason, that we must sow the seed of universal homogeneity among the serried millions of future generations. Let us hereafter teach our children that patriotism, like the sunshine, is a necessary condition to life, growth, and perpetuity in all public affairs. Like the spots on the sun, so let parties exist—of such ephemeral and trifling importance that they may scarcely be noticed in the brightness of the life-giving light behind them.

C. T. H.

San Francisco, February 1st, 1872.

PREFACE TO THE REVISED EDITION.

THE first limited edition of this book was intended mainly for distribution among educators, scholars and professional men, with a view to eliciting the criticisms of such as felt the importance of introducing the study of the American system into the schools of the country. The author was well aware of the necessary imperfection of the work of any one man, when attempting to eliminate from the seething mass of free thought in the United States those principles only on which all could agree, as forming a part of the American system. The variety of criticism which the book has elicited has satisfied him that he had not overrated the necessity of vigorous and persistent effort, on the part of all patriotic citizens, in order to secure anything like homogeneous opinion on many points of our national thought. If the learned hold such different views, what are we to expect from the ignorant? But in one point all who have replied to the circular accompanying the book have (with one exception) agreed. They unite in the warmest expressions of approval of the great design of teaching the elements of patriotism in all schools, public and private, to such of the pupils as are old enough to appreciate the study. The reader is referred to the testimonials in the latter part of the book for specimen opinions in this behalf.

Many elaborate criticisms have also been received, and, so far as the same have proven consistent with each other and with the general scope of the work, they have been availed of. Special thanks in this regard are due to Rev. L. Hamilton, Ex-Gov. H. H. Haight, James Denman, Principal of the Denman School of San Francisco, to

Ex-Gov. Peter H. Burnett, Rev. Eli Corwin, of Middletown, N. Y., Rev. J. H. Hopkins, Jr., of Plattsburgh, N. Y., President D. C. Gilman, and Prof. Martin Kellogg, of the University of California, the late Dr. Francis Lieber, and Rev. T. A. and Mrs. Alice D. Hopkins, of the Vt. Episcopal Institute, Burlington, Vermont.

The opinions of the press have not been sought except in a few instances; nevertheless, the book has been fully reviewed by several leading periodicals both on the Atlantic and Pacific coasts. Of these, all have most cordially approved its object, while the opinions of its plan and execution have been favorable in proportion to the thoroughness of the examination bestowed upon it by the several reviewers. This is not a subject to be carelessly glanced at or flippantly disposed of. It is worthy of the deepest thought of all conscientious and patriotic citizens, be their party politics, their prejudices, or their sect what it may. To such, the work as now revised is committed with confidence that it will attract such attention as its object everywhere challenges; and should the book itself be thought inadequate, if nevertheless it shall excite sufficient interest in its purpose to secure the preparation of better text-books on this topic, and the general introduction of the study of patriotism into all our schools, the object of the present attempt will be attained to the full satisfaction of the author.

C. T. H.

San Francisco, March 26th, 1873.

TO TEACHERS.

It is hoped that this little work may be found *suggestive* both to teacher and pupil. There is no subject treated in it that would not make a fruitful theme for a lecture of an hour's length. Those teachers who take interest in political affairs can easily prepare such lectures, in which they will be aided to some extent by the notes and references given in the book.

The more the pupils know of history, the better will they be able to appreciate the study of American ideas. Without some knowledge of the history of the United States, they cannot be interested in the principles of the American system. As to the proper place for this study, in the curriculum of any public or private school, I make no suggestion, save that until the young mind begins to think for itself, to read the newspapers with attention, and take notice of contemporary events, it will hardly be able to comprehend the subjects which I have attempted to elucidate.

THE AMERICAN'S POLITICAL CREED.

1. I believe in liberty, equality and law: in the sovereignty of the People: and in Government by and for the People through representation, and according to written constitutions.

2. I believe that all men were created with certain inalienable rights, among which are life, liberty, and the pursuit of happiness: and that Governments are designed to secure these rights by means of institutions.

3. I believe in free and public opinion: in free speech, free press, free assembly, free communication and free association: in the division of powers and responsibilities among public officers: in the rights of petition and instruction: in universal religious liberty, and in free public education by the State.

4. I believe in universal suffrage: in the rule of the majority and the submission of the minority: in peace and good will to all nations, but entangling alliances with none, and in free naturalization.

5. I do **not** believe in taxation without representation: in hereditary aristocracy: in legal monopoly: in standing armies in time of peace: in government by force: in orders of nobility: in aggressive war: in slavery: in the union of Church and State: in violence, tyranny or persecution: or in the Divine right of Kings.

6. I believe in treating every man as innocent until he be proved guilty: in the rights of accused persons: in a fair trial by jury: in moderate and reformatory punishments in proportion to the offense: in *habeas corpus:* in tempering justice with mercy: and in the sacred obligation of an oath.

7. I believe in personal independence: in the dignity of labor: in obedience to the laws: in religion as the basis of morality: in electing only the best men to office: in a happy home: and in progress.

8. And I believe that loyalty in the United States consists in the intelligent attachment to the system of American ideas, to whose maintenance in perpetuity I pledge my life, my fortune, and my sacred honor.

INTRODUCTION.

CHAPTER I.

NATURAL RIGHTS.

1. If man had been created to live alone, he would have had an undisputed right to do whatever he pleased. He could be guilty of no offense against man, for there would be no other person against whom an offense could be committed. Robinson Crusoe could do no wrong except to himself, to his Maker, or to the brute creation.

RIGHTS LIMITED BY SOCIETY.

2. But so soon as two or more human beings live together, each finds it necessary for the sake of peace, to abstain from certain acts, which, however innocent in an isolated condition, would be sure to offend or injure those associated with him. He who travels alone in a desert needs turn out of his way for no one; but the wayfarer in a crowded city can avoid collisions only by the exercise of constant self-restraint.

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1. Could man commit crime if each person lived alone? Why not?

2. Why does the presence of other persons limit natural freedom? How many of the ten commandments would have no meaning if men did not live in society?

ORIGIN OF LAW.

3. Man was created a social being, and must live with others of his race. The sexes must live together, parents with children, families with families, friends with friends. Thus *society* is formed. As the presence of others necessarily limits the freedom of each person, there soon grows up a kind of mutual agreement, whereby the actions of each are restrained in the same manner, and to the same extent. So far as these restraints refer only to matters of small consequence, and grow up gradually and without formal enactment, they are known as the "customs" and "manners" of a people. But when it becomes necessary to *compel* the obedience of such as refuse to submit to society, in matters of importance to the general good, they are called "laws."

ORIGIN OF GOVERNMENT.

4. **The primal object of law in society is to prevent and punish crime, or such acts as are committed by one person with the intention of injuring another.** If such acts were allowed, each injured person or party would naturally seek revenge on the author of the injury; whence continual quarrels, fighting and murder would render public peace impossible. Slow and gradual experience has shown that men cannot live together unless they be agreed: that no continued agreement is possible, unless the lives, the liberty, the rights

3. How was society formed? How does it operate to restrain individual liberty? What are the customs and manners of a people? What is fashion, what politeness, and table etiquette? When do customs take the force of law? Describe the difference in the punishment which society inflicts for bad manners and for crimes. Has Government anything to do with mere manners?

4. What is the primal object of law? Define crime. What would happen if the law did not punish crime? What is Government? What is the proper business of Government? What does each individual concede to the Government, and why?

of property and the happiness of every individual are carefully protected. This requires that criminals be punished, and that crime shall be prevented; that every person shall be encouraged to lead a harmless and useful life, and discouraged from doing any act that shall cause pain or loss to others; and that so much of the powers of self-protection inherent by nature in the individual as shall be necessary for these purposes, shall be entrusted to a few persons whose business it shall be to use those powers for protecting all the people. The persons entrusted with such powers are the "Government," and the proper business of Government is to make and enforce the laws.

CIVILIZATION.

5. The Creator has seen fit to make society a school for the development of the individual into a very different being from what he would be if left like the beasts, merely to gratify his animal passions. This social training or development is the civilizing process, and its result is called "civilization." It is a tedious process, involving all the conditions of human existence so far as they relate to religion, knowledge, invention, law and government. Though society is now far more advanced than at any other period of the world's history, it is still constantly improving. At various periods in the past, different ideas of government have prevailed, and many imperfect forms of it have been instituted. It took men nearly six thousand years to find out how dependent they were for their private happiness on their forms of Government, and how much suffering has been the result of mistaken notions on this most important element of civilization.

5. What is civilization? What human conditions are included in civilization? Is Government an important element in it? Have men suffered from their imperfect notions of Government?

The earliest and simplest form of government was the

PATRIARCHAL

6. or Parental: under which the head of the family ruled all its members. Such was the Government of Abraham, Isaac, and Jacob, as described in the Old Testament. This form was of course of very limited use, being applicable only to single households, and soon grew into the

TRIBAL FORM

7. which united in one tribe or clan, and under one chieftain, all who were related to each other by the ties of blood. The chief was usually the oldest male member of the oldest family of the clan. This form of government was common among the barbarians of ancient Europe, also in Scotland and Ireland.

MILITARY DESPOTISM.

8. But man in a savage state was sadly given to fighting and plunder. Naturally indolent, he did not cultivate the ground. If he attempted it, his crop was very apt to be gathered by his enemies, or at best to be shared among all of his own clan, whether or not they had labored with him to produce it. Hence, no motive to industry could exist. Hunting and fishing were the principal means of living to the scattered tribes; and when these failed, the deficiency was made good by a foray upon neighbors. Such invasions were, however, likely to be resisted; hence the necessity for the tribe to act under the orders of a military chief. The bravest warrior thus became the head of his clan, and that he

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6. What was the earliest form of government? Describe its origin.
7. Describe the Tribal form?
8. Describe Military Despotisms?

might be able to command instant obedience, his power was made absolute over the lives and liberties of his people. Thus organized, clan fought with clan. Occasionally, one tribe would conquer several others, and its successful chieftain, ruling them all by right of conquest, would unite them into one nation, and would thus become a King or Emperor.

HEREDITARY MONARCHY.

9. But by and by the King would die, and then his principal followers would contend with each other for his crown. Civil war would follow, weakening the State, and perhaps exposing it to conquest by some neighboring prince, waiting for such opportunity. To prevent this, it came to be conceded that the oldest son of a King should succeed to the throne on his father's death, and thus originated the idea of "Hereditary Monarchy." Nearly all the kingdoms of the world yet confine the descent of their crowns to members of their Royal families.

TYRANNY OF KINGS.*

10. It came to pass however that many Kings became tyrannical, using their power not for the good of the people, but for the gratification of their own passions. Some loved war, and thought only of conquests. Some loved money, of which they robbed their people. Some filled their palaces with women, regardless of the rights of husbands and fathers; or they surrounded themselves with bad characters, who brought endless miseries upon the nation. The great majority of them loved to make

*For a remarkable and graphic prediction of the evils of the kingly form of government, see 1st Samuel, viii: 11th to 18th verses.

9. What is "hereditary monarchy"? How did it originate? Does it still exist?
10. Did royalty lead to tyranny? What was the universal tendency of "one-man power"?

their power felt, and took a delight in spilling the blood of their subjects. To check the universal tendency of "one-man power" to reduce mankind to slavery, various devices have been attempted. Among these, one of the most successful was

CONSTITUTIONAL OR LIMITED MONARCHY.

11. This institution is based upon the theory that the *people have some rights*, and it prescribes the rules and conditions by which the King shall be bound not to trample upon those rights. It also creates a Parliament or Council, to exercise a portion of the powers of government independently of the King, who being thus watched and controlled, can no longer so easily oppress the people. This form of government is of recent date, and most of the present European monarchies are "limited" as well as "hereditary."

OLIGARCHY.

12. Another mode of attempting to escape from the tyranny of Kings has been frequently tried. It is that in which the government has been entrusted to several persons with equal powers, or to a class or privileged order of men. Such were the governments of some of the old Grecian cities. Such also was the rule of Modern Venice. But it has generally been found that, as soon as the power of a few has become firmly and permanently established, so that they cease to fear for the consequences of their actions, their tyranny has been as intolerable as that of any single monarch; while their personal rivalries against each other have often engendered civil commotions, attended by every frightful crime.

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11. What is constitutional or limited monarchy? How did it originate? What new theory did it introduce? How did it change the form of government? Does this form now exist? Where?

12. What is "Oligarchy"? Where was it practiced? What was its success?

THEOCRACY.

13. Another ancient form of government was that of the Jews, whose laws were directly revealed to them by God, and administered by priests. This form is termed "Theocracy," which means, "Government by God." There have been many imitations of it, wherein priests, claiming to act by divine command, have ruled the people with absolute power. Such was early Mahommedanism. Such to-day is Mormonism. This idea of government is peculiarly opposed to all constitutional forms; for the latter derive their authority from the people; but theocracy, claiming its power from God, admits no rights on the part of the people which their rulers are at all bound to respect.

DEMOCRACY.

14. This word means, "government by the people." This was the form used by the ancient Athenians and Romans, whose people met in council, and themselves decided the measures to be adopted by the State. The town governments of New England are modern examples of democracy. But this form is practicable only in single towns and cities, as it is clear that there is a limit to the number of persons that can be assembled for such a purpose. It is, therefore, essentially different from

REPUBLICANISM.

15. In which the people of the various towns and districts send their representatives periodically to perform

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13. What is "Theocracy"? Where did it originate? Does it now exist, and where? Is it favorable to the rights of the people?

14. What is Democracy? Where was it used? Where does it now exist? Is it practicable on a large scale? Why not?

15. What is Republicanism? When, and how did it originate? How does it compare with other forms? Where does it exist?

all the duties of the government in the manner indicated by the people themselves. This form is the outgrowth of the highest civilization yet attained by man. It is the most recent, and therefore has the advantage of all previous history, whose theories it has reversed, and by whose errors it has profited. It owes its origin to the careful reading and profound study of human nature by many of the ablest minds of the last century, and under its benign influence, the people have gained more security and happiness than have ever before fallen to the lot of humanity. This form is that of the United States.

CHAPTER II.

In order to understand why the American ideas of government are superior to all that preceded them, it will be necessary to go back a few centuries, and thence briefly sketch the errors in opposition to which our system was framed.

THE FEUDAL SYSTEM.

16. After the barbarians of northern Europe had overthrown the old Roman Empire, a principle of government resulting in what was called the "Feudal System" was adopted all over Europe. According to this idea, the absolute ownership of all lands belong to the King, who was deemed to wear his crown by "Divine Right"—that is, he was supposed to derive his power not from the people who were under him, but from God, who

16. When did the Feudal System originate? Describe it? What were the powers of a King under that system? What were the three principal means of supporting monarchy?

alone was above him. It was therefore considered an impious act to rebel against "the Lord's anointed," or to refuse the most abject submission to all his commands. The King was the "fountain of honor." He only could grant titles, or supply the means to support them out of the lands of the nation. He made such laws as he pleased, executed them himself, and appointed all the judges who were to enforce them. He was the commander in chief of the army, declared war and levied taxes at his discretion. He exercised absolute power of life, death, and confiscation over his people. And he supported himself in the exercise of these powers by three principal means. The first of these was the

NOBILITY.

17. The King, as owner of all land and the fountain of honor, had the exclusive right to create privileged orders, such as dukes, marquises, earls, counts, barons, baronets, etc., to each of whom he granted a county, earldom, or other large tract of land, as to the King's tenant: the condition of the lease being, that so long as the nobleman receiving it (and his oldest son after him) "did homage" to the King, and followed him to the wars when called on, furnishing a certain number of knights and soldiers at his own expense, the land, together with all the people living on it, should belong to him and his heirs.

The nobleman would then divide the land among his knights and "gentlemen" followers on like conditions. These, in turn, subdivided and leased it to the farmers or peasants for cultivation, and the latter were of course

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17. State the privileges of the nobility? The mode of holding lands? The position of the people under that system?

obliged to support by their labor all the higher classes of lords and gentry, while they were likewise obliged to bear arms whenever the lord of the land summoned them to war. Thus the whole body of society was organized into an army, and as the only business of the King, lords and gentlemen was war, there was small leisure or opportunity left to the people for agriculture, manufactures or commerce. But as the peasants owed their lands to the gentry, the gentry to the lords, and the lords to the King, all were alike pledged to the King's service, no matter how much of a fool or a knave he might be.

Thus, all the Prince had to bestow he lavished upon his nobles. The populace were deemed to exist only for the benefit of the higher classes, whose slaves they were. They were not considered to have any "rights," as Americans understand them. Their property was liable to seizure whenever their masters wanted it. If they refused to disclose it, they were imprisoned or tortured until they complied. For the most trifling offenses they were put to death without judge or jury. To be charged with treason was ruin to the accused in body and estate. While all knowledge and education were carefully withheld from the people, they were taught that the King ruled as God's representative; that to disobey him was to defy the Almighty; that loyalty to his person was the highest of virtues. They were trained to believe that the King and his nobles were of a different blood from the common people. To be born noble was the greatest earthly privilege. If base born, only the special favor of royalty could remove the stain of birth, and raise a peasant to equality with the great.

CHURCH AND STATE.

18. The second means whereby royalty was sustained was the Church.

The idea of the union between Church and State was evidently inherited from the old pagan Governments of Egypt, Persia, Greece and Rome: for in the ancient days, whatever might be the religion of a nation, it was exclusively supported by the State, and was enforced like any other law of the land. This arrangement of course involved the persecution and extinction, if possible, of all who opposed the national religion. Hence, when Christianity was first promulgated in opposition to the established religion of the old Roman Empire, it encountered fierce persecution at the hands of the Government during nearly four hundred years. But at last the Emperor Constantine was converted to the faith, and thereupon Christianity supplanted paganism as the religion of the empire. Afterwards, when the empire became disintegrated into many nations, each of them remained allied to some form of the Christian faith.

The result of this alliance between Church and State was the denial throughout Europe of the right of free opinion on religious subjects. The State was bound to enforce conformity to the established Church, while the Church constantly promoted the extermination of infidels and heretics wherever found. Hence arose grevious persecutions; long and bitter wars were continually waged between the Christian nations and the Mohammedans, as well as between the different forms of Christianity itself. At times there were fierce contests between the Church and the State, in which each claimed the

18. Describe the union between Church and State. What was its origin? How did it result in oppression to the people? What was its effect in promoting wars and persecutions?

right to control the partnership. That the idea of the union between Church and State has always been fatal to the liberty and happiness of individuals, as well as to the peace of the world, is evident from the fact that religious wars and persecutions alone are estimated to have cost fifty millions of lives during the history of modern Europe.

STANDING ARMIES.

19. Such was the result of the Feudal System and of the union of Church and State in destroying human liberty during the dark ages. But in the fifteenth century gunpowder was invented. This, by destroying the effectiveness of the Feudal mode of assembling and supporting troops, gradually changed the whole art of war, and led to the more modern plan of "standing armies." Every European King then began to keep as many soldiers constantly under arms as he could find the means to pay. He was thus always prepared for war, either against his neighbors or his own subjects, should the latter choos to rebel. Arrests and punishments for treason were thus made easy. The troops, of course, depended wholly on the crown for their pay. They were commanded by the nobility; they were therefore always in hand to put down insurrection, and often ravaged and destroyed their own people more than they did their foreign enemies. It was but seldom that any revolution could be organized with sufficient strength and secrecy to oppose a standing army, and when this happened, it was generally fomented in the interest of some disaffected noble, seeking to gratify his own ambition, rather than in behalf of the liberties of the people.

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19. When were standing armies introduced? What was their effect on popular liberty?

SLOW PROGRESS OF CIVILIZATION.

20. Thus all the principal institutions of Europe, up to the fifteenth century, seem to have had for their object the benefit of the privileged few at the expense of the misery and slavery of the many. Even in this nineteenth century the union of Church and State exists in nearly every European country, and in all the South American States. In Italy and Mexico, freedom of conscience has been conceded only since 1860. In some European States the doctrine of "Divine Right" is yet taught. In all of them standing armies are still maintained. Nevertheless, a long series of events has gradually bettered the condition of the lower classes. Prominent among these were the inventions of gunpowder and printing. Then came the discovery of America and consequent increase of commerce, and the Reformation —teaching men to think for themselves, followed by two centuries of religious wars, terminating in the stop to religious persecution. Thousands of inventions in machinery revolutionized all the relations of capital to labor, raising the mechanic and manufacturer to a high place in all civilized societies. A succession of brilliant discoveries in every department of science and art gradually overcame popular ignorance and superstition, and taught mankind that whatever be the outward surroundings of a human soul,

"*A man's a man for a' that!*"

21. Finally came the American Revolutionary War, and the unfolding to the nations of the principles em-

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20. In what countries is there still a union between Church and State? Is the doctrine of Divine right yet taught anywhere? Are standing armies maintained? What events tended to promote civilization in Europe?

21. What event in America hastened popular freedom? Repeat the quotation from the Declaration of Independence?

blazoned in our Declaration of Independence and Federal Constitution. From the study of these the world is now learning that the purest ideas of government are those upon which the American Republic is founded. It was reserved for the great Jefferson to pen the thought—

"That all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness; that to secure these rights, Governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it, and to institute a new Government, laying its foundations on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness."

CLASSIFICATION OF AMERICAN IDEAS.

22. In the Introduction we have quoted the words from the Declaration of Independence which express the fundamentally distinctive principle of the American form of government. **"We hold these truths to be self-evident, that all men are created equal (that is, with equal rights); that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty and the pursuit of happiness; that to secure these rights, Governments are instituted among men, deriving their just powers from the consent of the governed."**

23. To understand how the only government that ever existed, having for its sole object the securing of the people's rights, does derive its just powers from the consent of the governed, it will be necessary first to discuss our peculiar

POLITICAL IDEAS,

Which are the principles regulating the action of the people in forming and maintaining a government strong enough to punish criminals, regulate society, and protect its citizens in all their rights, and yet powerless to do any harm to its own law-abiding people. When these have been explained we shall proceed to the

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22. Repeat the quotation from the Declaration of Independence.
23. What are Political Ideas?

LEGAL IDEAS,

24. Which underlie the laws regulating the action of the government in dealing with accused persons, criminals, the rights of property, and personal relations between individuals.

25. In closing the work, we shall treat of several other American ideas which cannot be included in either of the foregoing divisions.

26. Politics is the science of Government. It includes the whole range of thought and action involved in the **construction and maintenance** of the Government.

27. Law embraces the whole series of enactments through which the Government acts upon the people.

In the United States, every detail in all departments of the Government is fixed by law, which controls the actions of all government officers, from the President down to the Pound-master, just as completely as those of the private citizen. **Law allows neither Government nor governed to infringe upon the political liberty of individuals.**

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24. What are Legal Ideas ?
26. Define Politics. What does this term include ?
27. What does law in the United States embrace?

PART I.

POLITICAL IDEAS.

LESSON I.

OF POLITICAL LIBERTY AND EQUALITY.

28. The principal object of the American form of Government is to secure the political or civil liberty of every citizen.

29. There are two sets of motives implanted by nature in all human beings. These are, the desire of doing evil, and the desire of doing good.

Doing evil causes pain or suffering to one's self or to others.

Doing good causes pleasure or happiness to one's self or to others.

30. (*a*)The common or natural idea of liberty is freedom from restraint, or the free power of doing whatever one pleases, without regard to other people. This is the liberty referred to in Chapter I of the Introduc-

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28. What is the principal object of the American form of Government?

29. What two sets of motives are implanted by nature in every person? What is the result of evil doing? What of well doing?

30. What is the common or natural idea of liberty? What would this idea result in, if acted upon in society? Could society exist where each man should undertake to do whatever he pleased, without regard to the rights of others? Why does republicanism not succeed in France? What has resulted from French attempts at republicanism?

tion, as that which a man would enjoy were he to live alone. But if he live in society, it would mean—

"That he may take who has the will,
And he may keep who can."*

Evidently society could not exist where each man should attempt to do whatever he pleased, without regard to the rights of others. It is because of their confounding the *political* with the *natural* idea of liberty, that the French populace have always thrown society into confusion whenever they have tried to establish republicanism. Each uneducated Frenchman is apt to think that all the liberty is for himself, but none of it for his neighbor! Hence the riots, the bloodshed, the "communism" of 1798 and 1871. Hence the words of the famous Madame Roland, when passing the Statue of Liberty in Paris on her way to the guillotine: "Oh Liberty! what crimes are committed in thy name."

31. *Now society has no right to interfere with such acts as promote happiness, nor with such as injure only the person who commits them. But it has a right growing out of the instinct of self-preservation, which is the first law of nature, to prevent all such acts as tend to injure other people.*(*b*) It must forbid theft, robbery, murder and all other crimes, because the commission of such acts is destructive of the property, liberty and lives of its members. Clearly then such liberty as is consistent with living in society must have a different meaning from the common notion of natural freedom. Remember therefore, as long as you live, that

*Wordsworth's "Rob Roy."

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31. Has society any right to interfere with such acts as promote happiness? Or with such acts as injure only the person who commits them? How is it with such acts as tend to injure other people? Why must society forbid crime?

32. Political or civil liberty is the freedom to every individual to do as he pleases, so long as he does no evil to any one else.

This is the kind of freedom which American institutions seek to secure to every one. It is the natural and inalienable right of all men to enjoy life, liberty (as above defined), and the pursuit of happiness; and our Declaration of Independence states the surest and in fact the only means of securing these rights, when it says that **for this object "Governments are instituted among men, deriving their just powers from the consent of the governed."**

33. *How do we know that we have the right to be free?*

1st. By the law of nature. God created man in his own image, and breathed into his nostrils the breath of life.* In so doing, he must have endowed him with at least the same rights as he gave to the beasts and birds. No animals exist in a natural state except as they are free to pursue happiness, each in its own method. And it is contrary to reason to suppose that after the Creator had made man in his own image, he would have prevented his enjoyment of his faculties to a degree at least in proportion to that of the inferior creatures. **Indeed, the very fact that certain wants were implanted in his nature, implies that he was intended to be free to gratify those wants.** As God gave wings to the bird that it might fly, and fins to the fish that it might swim, so he gave man hands that he should labor, feet that he should walk. He made him naked that he

*Gen. 1: 26-27. Ib. ii: 7.

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32. What is the definition of political or civil liberty? What kind of liberty do American institutions seek to secure to the people? Have the people a right to such liberty? For what object is Government formed?

33. How do we know we have the right to be free? State the argument from nature?

should clothe himself. He gave him reason that he should think, learn, and study. He gave him affection, that he should love; speech that he should talk; and invention, taste, the love of the beautiful, that he should improve his condition, and cultivate his mind by using the treasures of creation. **Now, whoever prevents his fellow-man from the free exercise of all the good faculties implanted in him by Nature, violates the laws of Nature. "I am a man, therefore I have the right to be a man."***

34. Again, the word "rights" as used in connection with liberty, derives its meaning from the same word "right" when used as the opposite of "wrong." We have already seen (see Section 29) that doing evil causes suffering to one's self or to others, while doing good causes happiness. **We judge of the character of actions performed towards others by the results they are intended to produce.** Now you have a right to life. If any person murders you, you suffer. Hence, murdering you is wrong, the opposite both of right and of your right to life.

So you have a right to go where you please. Whoever imprisons you, causes you to suffer. Hence such imprisonment, if attempted by a private person, is wrong, the opposite of right and of your right to personal freedom. You have a right to your limbs. Whoever cuts off your hand, causes you pain and serious injury. Hence, to cut off your hand is wrong, the opposite of right, and of your right to your own body.

*Lieber's Political Ethics, p. 179.

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34. What connection is there between the adjective "right" and the noun "rights"? How do we judge of the moral character of actions performed towards others? Illustrate this in the case of murder? Of imprisonment? Of maiming? Of stealing? Does common sense or conscience guide us how to deal with one another?

So also you have a right to your property. Stealing this causes you to suffer the loss of it. Parents have a right to their minor children. Husbands and wives have rights in each other. The laborer has a right to his wages. Whoever interferes with these rights causes suffering to those interfered with. Hence, such interference is wrong, the opposite of right and of the rights of the injured parties. Thus every man's own common sense or conscience, if he will but ask it when tempted (as we all are at times), to do some injury to another, will at once point out the wrongfulness of such conduct, and teach him to respect the rights of others.

2d. **By revelation.**

35. § But men's passions are often stronger than their common sense. Reason indeed exists in every sound mind, but it is a seed of slow growth; while covetousness, cruelty, and contention, like an early crop of weeds, are very apt to grow up, bloom, and go to seed, before reason has fairly sprouted. Hence, history had recorded the errors of men in their attempts to organize society during four thousand years before Jesus Christ uttered those magical words, "**All things whatsoever ye would that men should do unto you, do ye even so to them.**" * This little sentence contains the essence of the American idea of Political Liberty, though so slow was humanity to appreciate the vast truth it contains, that 1700 years elapsed after its utterance, before men awoke to the necessity of adopting it as a principle of Government.

*Matt. vii: 12.

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35. Why was revalation necessary to make men see clearly their relations to each other? Repeat the Golden Rule. Does the Golden Rule express the American idea of political liberty?

EQUALITY.

36. Political Liberty can exist only among equals.

Natural inequality exists among men by virtue of the laws of nature. That is, no two persons are created exactly alike in body or in mind. These inequalities, society has no right to interfere with. To make the most of his own natural talents, is a right in every man which society must respect. **But inequality in rights or privileges created by society, that is, by human contrivance, and not by the will of God, means that some man or men shall possess some rights established by law which other men have not.**

Whatever is thus added to the rights of one, must be subtracted from those of others. Now, no liberty can be complete which deprives any man of any of his rights. Hence, the existence of privileged classes in society impairs the liberty of all other classes, so that **Liberty and Equality can exist only together.**

37. *What does the Declaration of Independence mean when it says, "All men are created equal?"*

It means that all men are created **with equal rights.**

Society does not make men; it takes them already made, with all their natural differences in character and talents. And we can only say that so far as **man's** laws can affect the liberty of individuals, they shall all enjoy equal rights before those laws.

38. *What says the Bible on the subject of Equality?*

"Ye know that the princes of the gentiles exercise

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36. Among whom only can political liberty exist? What is natural inequality? Has society any right to interfere with natural inequality? Has every man a right to make the most of his own natural talents? What is social or political inequality? Can it exist together with an equal enjoyment of rights by all? Is liberty complete which deprives a man of any of his rights?

37. What does the Declaration of Independence mean when it says, "All men are created equal"? Explain this.

38. Repeat the teachings of the Bible on the subject of equality?

dominion over them, and they that are great exercise authority over them. But it shall not be so among you; but whosoever will be great among you, let him be your minister. And whosoever will be chief among you, let him be your servant." *

"He that is greatest among you, shall be your servant. And whosoever exalteth himself shall be abased, and he that humbleth himself shall be exalted."†

39. *How came the principles of Christianity to suggest the American ideas of Liberty and Equality?*

The leading colonists of America were earnest believers in the Bible, and, having chosen to follow its teachings as they understood them, each for himself, they were so persecuted for this by the established churches in their European homes that they fled to the wilds of America in search of freedom to worship God. Separated as they thus became from the rest of the world, they had much leisure for reflection. The Bible, often their only book, was in every house. It was thoroughly studied by the masses of the people. Its precepts were reduced to daily practice, and its influence was evident in all public proceedings. As we have before remarked (see Chap. 1, Sec. 5, of the Introduction), "Civilization involves all the conditions of human existence, so far as they relate to religion, knowledge, invention, law and government." It was the religion of the Puritans and Quakers of the 17th and 18th centuries that stamped itself upon American civilization.

NOTES.

(*) Natural liberty consists properly in a power of acting as one sees fit without any restraint or control, unless by the law of nature;

*Matt. xx: 25-27. †Matt. xxiii: 8-12.

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39. How came the principles of Christianity to suggest the American ideas of liberty and equality? Does religion exert any influence in civilization? What was the religion of the early colonists of America?

being a right inherent in us by birth, and one of the gifts of God to man at his creation, when he endowed him with the faculty of free will. But every man, when he enters into society, gives up a part of his natural liberty as the price of so valuable a purchase; and in consideration of receiving the advantages of mutual commerce, obliges himself to conform to those laws which the community has thought proper to establish. * * * For no man that considers a moment would wish to retain the absolute and uncontrolled power of doing whatever he pleases; the consequence of which is that every other man would have the same power, and then there would be no security to individuals in any of the enjoyments of life. *Political*, therefore, *or civil liberty, which is that of a member of society, is no other than natural liberty so far restrained by human laws (and no further) as is necessary and expedient for the general advantage of the public.*"—1st Blackstone's Comm. p. 125.

"*Moral or natural liberty is the right which nature gives to all mankind of disposing of their persons and property after the manner they judge most consonant to their happiness, on condition of their acting within the limits of the law of nature, and that they do not abuse it to the prejudice of any other men.*"—Burlamaqui, Ch. 3, § 15.

"*Civil liberty is the not being restrained by any law but what conduces in a greater degree to the public welfare.*"—Paley, B. VI, c. 5.

"*Civil or legal liberty is that which consists in a freedom from all restraints except such as established law imposes for the good of the community to which the partial good of each individual is obliged to give place.*"—Archbishop of York, sermon preached Feb. 21st, 1777, p. 19.

(b) "The only purpose for which power can be rightfully exercised over any member of a civilized community against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant. He cannot rightfully be compelled to do or forbear because it would be better for him to do so, because it will make him happier, because in the opinion of others to do so would be wise, or even right. These are good reasons for remonstrating with him, or reasoning with him, or persuading him, or entreating him, but not for compelling him, or visiting him with any evil in case he do otherwise. To justify that, the conduct from which it is desired to deter him must be calculated to produce evil to some one else. The only part of the conduct of any one for which he is amenable to society, is that which concerns others. In the part which concerns himself his independence is of right abso-

lute. Over himself, over his own body and mind, the individual is sovereign."—*J. Stuart Mill on Liberty, Introduction*, p. 23.

"The only freedom which deserves the name is that of pursuing our own good in our own way, so long as we do not attempt to deprive others of theirs, or impede their efforts to obtain it."—*Ib.* p. 29.

Throughout this work will be found annotations and quotations from Blackstone, J. Stuart Mill, and other English writers. In thus giving European authorities for American ideas, the suggestion at once occurs that many of the peculiarities of our system are drawn from foreign sources, and should therefore be found in their purity in the countries where they originated. The student of history will understand that though many of our fundamental ideas were the result of English thought, it was only in the free air of America that men were at liberty to collate those ideas and put them into practice. In the words of the late Thos. Starr King: "All that former thinkers have done to justify the principle of freedom, and heroes have achieved against the oppressions of despotism, and martyrs have suffered for their perilous love of liberty; all the stimulus which religion, in the past, has given to the heart's reverence for right and the head's loyalty to truth; all that eloquence has done to make tyranny tremble and fan the popular sense of justice to a flame; all that literature has preserved in treatise, song or drama, of past devotion to liberty and longing for its triumph, are related and have contributed to our success in the structure of a social polity. We may properly enjoy the pride, if we will be faithful to the privilege of bearing in our institutions the best thought and life of the past concerning public justice and social welfare."—*Lecture on Patriotism.*

The antitheses pointed out in this work between American and European ideas of government must be understood with reference to the state of European thought previous to the rise of the American system. During the nineteenth century the progress of Europe towards popular liberty has been greatly influenced by the example of the United States. Thus in England, whose common law was the basis of American law, had it not been for our example, it is very doubtful whether she would have extended the franchise to £10 freeholders; revised her public school system; introduced the ballot; disestablished the Irish church; liberalized her bankrupt laws; admitted Jews to Parliament; restricted the death penalty; or abolished the Catholic disabilities. Nor would the power of her nobility have waned in proportion to the rising influence of her commonalty,

who now constitute the real power of the British State. Nor without American example would republican ideas have made such strides on the Continent of Europe, where this century has witnessed great progress in religious toleration; in extending the freedom of the press; in abolishing the passport system; in the recognition of popular sovereignty; in the use of trial by jury, and the suffrage; in the adoption of the American doctrines of naturalization and of free education by the State. Though the contrast between American and European political ideas is now far less striking than in the last century, the American must not therefore lose sight of the value of his distinctive national principles, which, originally developed in spite of European opposition and contumely, have gradually convinced the world of their truth, and won the once hostile thought of monarchists to the attitude of respectful imitation.

LESSON II.

OF LAW.

40. In our first lesson we defined "political or civil liberty to be the freedom to every individual to do as he pleases, so long as he does no evil to any one else." Now suppose that some members of society insist on carrying out the *natural* idea of liberty, by doing as they please without any regard to the rights of others. *Can peaceable citizens enjoy civil liberty where such people are allowed their own way?*

They cannot. **No man can be free when he is liable to be knocked down, robbed, insulted, or murdered by any evil disposed person.** Peaceable people require that society shall protect their rights; otherwise each must go armed for his own protection.

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40. Can peaceable citizens enjoy liberty in a society where crime goes unpunished? What do good citizens require from society?

41. *What then relieves the citizen of the necessity of defending himself against the bad men who infest every community?*

Law, which protects society by punishing those who will not respect the rights of others.

42. *What three ideas then are inseparable in the American system?*

Liberty, Equality and Law.

43. *What do you understand by "Law"?*

The appointed rules of a Government for the control of its people.*

44. *What gives to law its power under every form of government?*

The authority of society, which is supposed to express its will through government. But in no countries save the ancient Grecian democracies and the United States, has the authority of laws been actually and constantly drawn from the free, voluntary expression of the people who were to obey them. A great proportion of law in other countries has been enacted by governments composed of the ruling classes, for their own exclusive benefit, not only without consulting the people, but often for the purpose of oppressing and plundering them. Law has always been a powerful weapon in the hands of the great for striking down the the natural rights of the masses.

*1 Kent. 447.

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41. What relieves the citizen from the duty of protecting himself against bad men?

42. What three ideas are inseperable in the American system?

43. What is Law?

44. What gives to law its power? In what countries only has law derived its power solely from the governed? How have laws generally been enacted under other governments? For what objects? Has the good of the people been the principal object of laws in all forms of Government?

45. *What are the principle objects of American laws?*

First. **To protect the life, liberty, property and happiness of every person alike, without regard to race, religion, birth, or color, from violence and oppression, whether attempted by individuals, societies, Government or its officers, or by foreign nations.**

Second. **To promote the greatest good of the greatest number.**

46. *Why do our laws operate precisely alike upon all persons under their control?*

Because in no other way can equality be enforced among the people. If there be any rights under the law, given to one man or set of men, which the others do not enjoy, then there is inequality, and we have already seen that without perfect equality the liberty of a portion of the people must be interfered with. (See Sec. 36.)

47. *You said that the objects of laws in the United States were to protect the people from oppression, whether attempted by individuals or by the Government. Why is it necessary that the citizens should be protected from their own Government.*

Because all history reeks with the innocent blood of subjects that has been shed by Kings, Emperors, nobles and tyrants under every pretext, and under every form of government except our own. **It is a law of human nature that unchecked power is sure to be abused.**

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45. What are the principal objects of American laws?

46. Why do our laws operate alike on all persons? Can liberty exist without equality?

47. Why must the citizen be protected from his own Government? What is the tendency of unlimited power? Are the powers trusted to Government officers in the United States limited? To what? Is it possible for our law-abiding citizens to receive harm from the Government?

Power loves to be felt, and to strengthen itself. Ambitious men are everywhere found who seek it, and having attained it, then they labor to subjugate their race by every possible means.

*The American system gives to its Government officers power enough to serve the public, but it trusts them no further than this necessity requires. It is nearly impossible for our Government or its officers to do harm to any citizen. Nor can oppression of any kind be inflicted on our people, until the principles of Republicanism be overthrown.

48. *What is a Constitution?*

A written statement of the principles on which a Government is founded, together with the form of its construction, the division and limitation of its powers, the description of its various offices, and their relation to each other.

49. *How many Constitutions are there in the United States?*

There is one for each State, known as the "State Constitution," and one for the whole Union, called the "Federal Constitution."

50. *What relation does a Constitution bear to the laws?*

The Constitution is like the frame of a house; the laws like the boarding, roofing, plastering and finishing. The frame gives to the building its size, strength and proportion; but unless it be covered in and completed, it is of no use as a house. To the Constitution the laws must be fitted, each law also bearing its proper relations

*See Montesquieu, Esprit des Loix XI, 5, also Leiber's Pol. Ethics, Book II, lxxxiii.

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48. What is a Constitution?
49. How many Constitutions are there in the United States?
50. What relation does the Constitution bear to the laws?

to all the others. In this way only can a uniform, consistent, complete and just system of laws be adapted to the wants of a civilized people.

51. *Are Constitutions and Laws established by the same authority?*

Both are ordained by the authority of the people, but they are established at different times, and through different agents. Constitutions, like house frames, are made *first*. They are generally drafted by a convention of delegates elected by the people for that service only, and their work is always afterwards submitted to the vote of the people; a majority of whom must vote in favor of it, or it cannot be adopted. Laws, however, are afterwards made by the legislators, who are elected every year or two for that purpose, in the manner and at the times prescribed in the Constitution. But the work of the Legislatures is not submitted to the popular vote except in very few contingencies. If they pass acts which prove to be unequal, unjust or contrary to the Constitution, or to the public will, the next Legislature will generally repeal or amend them, or they will be declared unconstitutitional by the judges. In these ways the will of the people always controls the making of the laws.

52. *Why are the Americans peculiarly a law-abiding people ?**

A. Because they are generally intelligent enough to know that society cannot exist without obedient respect for law.

*See Romans xiii: 1-7.

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51. How are Constitutions made? Do they derive their authority from the people? How? How are laws made? How are bad laws gotton rid of? How does the public will control the making of the laws?

52. Why are Americans peculiarly a law-abiding people? What do law-breakers think of laws?

B. Because they know that if their obedience is *not* voluntary, it must be compelled by force; and that were armies, spies, informers and large bodies of police thus made necessary, the republic must give way to monarchy.

C. Because the laws, being all made to please the majority of the people, oppress no one, and are felt only by the law-breakers, to whom all laws are offensive, and of these it may be said:

> "No rogue e'er felt the halter draw
> With good opinion of the law."

53. *Into how may different departments may American laws be divided?*

Into six, viz:

A. **Criminal Law,** which defines all kinds of crimes and offenses against the public or "State." These crimes and offenses include every act which may be committed against the lives, liberties, rights, property and reputation of individuals, and the criminal law carefully prescribes the punishments for each of such acts, which are called "public wrongs."

B. **Civil Law,** which prescribes the rights of persons and property, and the remedies for those who are unjustly deprived of them by what are called "private wrongs."*

C. **Maritime Law,** which relates to life, liberty and property on the high seas, and on lakes and navigable rivers.

D. **Military and Martial Law,** for the government of the army and navy, and places in a state of invasion or insurrection.

*See Blackstone's Com., Books III and IV.

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53. Into how many departments may American laws be divided? What is Criminal law? Civil law? Maritime law? Military or Martial law? Revenue law? The law of nations?

E. **Revenue Law,** which enjoins when, where, and how the various taxes must be paid for the support of the government.

F. **The Law of Nations,** which regulates the conduct of different nations towards each other in all circumstances of peace or war. (This can hardly be called American law, except so far as America, in common with other civilized nations, is bound by it.)

54. *What are the rights which are secured to every individual by the Constitutions and laws of the United States.*

A. The right of **personal liberty,** secured from injury to his life, his limbs, his body, his health, and his reputation.

B. The right of **locomotion,** or moving from place to place, or traveling at his own pleasure.

C. The right of **property,** and the right to be secure in his house, papers and effects from unreasonable searches and seizures.

D. The right to **worship God according to his own conscience.**

E. The right of **free opinion** on all subjects.

F. The right of **free speech.**

G. The right of **free press.**

H. The rights of **free communication and association.**

I. The right of **free assembly.**

J. The rights of **petition** and **instruction.**

K. The right to **keep and bear arms.**

L. The right of **trial by jury,** and other **rights of accused persons.**

M. The right **to appeal to the courts for protection** to all his rights of person or property.

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54. Name the personal rights which are secured to every individual by the American laws?

N. The right of **habeas corpus.**

O. The right to **educate his children at the public expense.**

P. The rights of **husband and wife.**

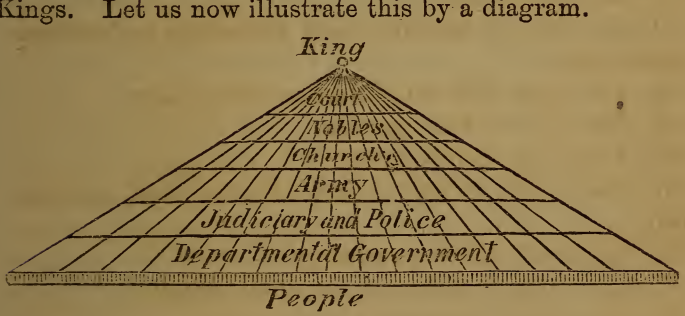
Q. The right—to all native-born men of lawful age, and to all naturalized citizens—**of suffrage.**

R. And generally, **the absolute right of sovereignty over his own body and mind, so long as his conduct produces no ill to any one else.**

LESSON III.

OF GOVERNMENT BY AND FOR THE PEOPLE.

55. In Chapter II of the Introduction we gave you a brief sketch of the feudal system, and some idea of what was meant by the doctrine of the "divine right" of Kings. Let us now illustrate this by a diagram.



This diagram represents the monarchical state. At its top sits the King, claiming to derive his authority from God.

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55. Describe the diagram illustrating monarchy, under the divine right doctrine? What was that doctrine? What was the position and authority of the King under that idea? Who came next to him in the State? Who were next after the Court? What next? What was the position of the army? of the judiciary and police? What was departmental Government? What was the position of the people?

All power flows downward from him. First below him are his court, or his ministers, generally chosen from among the nobles. Under these are the great body of the nobility. Next comes the State Church, supporting the King and nobles, and patronized by them. The army, governed wholly by the King and nobles, and often used in persecuting the enemies of the Church, furnishes the great means of tyrannizing over the people. Next the judges and police, all appointed by the King and dependent on him, contribute their efforts to his service. The departmental government is the local magistracy of all the cities and villages ruling the people by the King's authority, so that even in their own local affairs they must obey the royal commands. Under all this heavy weight helplessly lie the masses, supporting the whole by their labor, yet having no acknowledged rights; liable to be dragged into the army, subject to have soldiers quartered in their houses, their property seized, their families outraged, and themselves made the victims of every caprice of tyranny. All history is filled with the wars, the crimes and oppressions of the governing classes. It has but little to tell of the people, except that they often rebelled, though generally in vain, against the outrages continually heaped upon them. This system, once universal throughout Europe, has during the past century been gradually passing away. Under its false and baneful teachings no liberty and very little happiness were at all possible to the people.

56. Now this diagram represents the American system, in which the people are on the top, and all power flows

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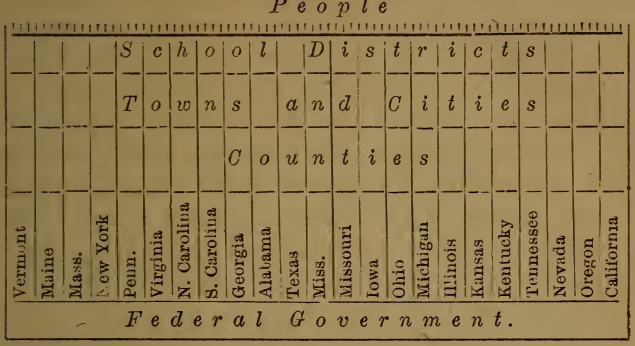
56. Describe the diagram representing the American system. Does power flow *from* or *to* the people? Is the Republican system only one Government? What is the object of dividing the powers and duties of Government? How many distinct Governments are there in the United States.



downwards from them to their several governments. And here it must be remembered, that the republican system is not **one** Government. **On the theory that the people are sovereign, everything must be arranged so that they can themselves manage their own affairs as far as practicable.**

There are thus many thousands of distinct governments in the United States. Let us see.

SCHOOL DISTRICTS.

57. In some of the States the lowest political division of territory is the **School District,** whose inhabitants meet in general assembly, to elect school trustees, decide on the building of school houses, and the tax they will pay towards a teacher's salary and the supplies for the school. This forms the Government of the school district, "by the people and for the people," but it extends only to matters concerning the school.

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57. What is the school district? What matters are acted on by the people at school district meetings? What is the extent of the Government necessary in a school district?

TOWNSHIPS.

58. The school district (where it exists) is, however, but a subdivision of the **Town** or **Township,** which is a distinct political organization found everywhere throughout the Union, though under different laws in the various States. And here there are more officers to be chosen, for there are more public wants than in a school district, and consequently more duties to be performed. In the older States, such as those in New England, the town's people meet at least once a year. The three "selectmen," who manage the town affairs, call these meetings. They report to the people what they have done during the previous year, and recommend to them such measures as they think necessary for the future. Upon these the people decide, and in this way the town lays out roads, builds bridges, provides for the support of the town poor, and levies its own taxes for these purposes. It elects its own selectmen, road master, justice of the peace, fence viewers, pound master, constables and town clerk. And each town, or township, managing its own local affairs for itself, without meddling with or being disturbed by any other town, has its own Government, made "by the people, and used only for the people," living in that town.

CITIES.

59. The simple organization of town or township government is however adapted only to small communities, containing each but a few hundred or a few thou-

58. What is a town? What business is transacted at a town meeting? What officers are elected for town government? Has one town anything to do with the government of any other town?

59. Why is the township form of government not adapted to cities? In what does the usual city Government differ from that of the town? What is a charter? What are the usual officers of a city Government? What subordinate departments are required in cities? Why?

sand people. But for cities, a much more complete and elaborate form of government is required. This is generally prescribed by a **charter** granted specially to each city by the State Legislature. Such a charter usually provides for a **Mayor**, a **Board of Aldermen**, or **Council**, a **Tax Collector**, an **Assessor**, a **Treasurer**, an **Auditor**, a **City Attorney**, a numerous body of **Policemen**, and one or more **Judges**, all of whom are elected by the people of the city. Besides these, the wants of large cities wherein paupers, criminals, the sick and diseased, and strangers form a much larger proportion of the population than they do in the country, require many other subordinate departments and officers. Among these are the **Fire Department**, **Jails**, the **Health Office**, **Hospitals**, **Alms Houses**, the **School Department**, **Reformatory Schools**, the **Board of Public Works**, the **Street Department**, and in sea ports, the **Harbor Master** and **Harbor Police**. Moreover, as large cities are constantly visited by a large portion of the population of the State, owing to the commercial dependence of the country upon the cities, the Legislature exercises much more watchful care over the city government than is required by the towns. Nevertheless, all the principal city officers are chosen only by the people of the city, to whom they are responsible, and thus the city Government, like that of the town, is administered "by and for the people" of the city.

COUNTIES.

60. But the towns and cities are not isolated communi-

60. What is a county? Who manages the affairs of a county? How are the Supervisors or Commissioners elected? What are the powers of the Supervisors or Commissioners? What other county officers are elected by the people? What are the duties of a District Attorney? Of a County Judge? Of a County Clerk? Of a County Recorder? Of a Sheriff? Of a County Surveyor? Of a County Assessor? Of a Coroner? Of a County Treasurer? Of a Public Administrator?

ties. One town or city is neighbor to another, and the people of all have many interests in common. **Several towns therefore form a county**; and to the county government the people in the several towns elect annually a delegate who represents that town in the County Board of Supervisors or County Commissioners. This body has a limited power over the county roads and bridges, the county jail, hospital and records. It has the power to levy the taxes on the people necessary to pay the annual expenses of these institutions. The people also elect a **County Judge**, a **District Attorney**, a **County Clerk** and **Recorder**, a **Sheriff**, a **Surveyor**, an **Assessor**, a **Coroner**, a **Treasurer**, a **School Superintendent** and a **Public Administrator**. The duties of these officers are as follows:

COUNTY OFFICERS.

The **District Attorney** is a lawyer, whose business is to prosecute persons accused of crime before the courts sitting in the county.

The **County Judge** is the Judge of the County Court, before which are tried all indictments for crimes committed in the county, and to which appeals may be taken from the several Justices' Courts in the different towns.

The **County Clerk** is the Clerk of the County Court, and keeps all the books and papers of the county relating to suits at law.

The **County Recorder** copies all deeds, mortgages and other documents relating to the landed property of the citizens of the County, into books provided for that purpose.

The **Sheriff** arrests criminals and keeps them in the jail, subject to the orders of the courts. And he executes all the lawful commands of the judges, preserves

the peace, and calls out the military or people of the county to assist him in case of resistance to the laws.

The **County Surveyor** makes official surveys of the county roads, and of all lands whose owners desire to have them surveyed officially.

The **County Assessor** fixes the value of all the lands and other property in the county for the purpose of charging each owner thereof with his fair proportion of the State and county taxes.

The **Coroner's** business is to inquire into all cases of sudden and unaccountable death occuring in the county, so as to detect and punish murder, if any has been committed. He also acts as Sheriff in case of that officer's disability, absence, or death.

The **County Treasurer** collects and keeps the taxes, subject to the orders of the Supervisors, and in compliance with the State law.

The **County Superintendent of Public Schools** presides over all the common schools in the county.

And the **Public Administrator** takes charge of all the property of deceased persons, in cases where no other party is entitled to administration. He holds such property, subject to the orders of the Probate Court and to the rights of lawful heirs.

Thus many of the duties of the Government are performed by the county officers. These are all elected "by the people," and they act only "for the people" within the limits of their own county.

STATE.

61. We come now to one of the grand divisions of ter-

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61. What is a State? What is the political character of a State? How many counties in a State? Is the State a confederacy of counties? Is the county a confederacy of towns? What is a confederacy? Is the State government made

ritory and authority in the United States, to wit: the **free and independent States.** Each State comprises a number of counties. Delaware has but three, and Rhode Island has only five; but others, like New York, Georgia, California and some of the northwestern States, have fifty to eighty counties. But the State is not a **confederacy** of counties. **A confederacy is a league or covenant between independent governments, acting in their sovereign capacity.** Now the principle of **confederacy** does not at all enter into any part of the Government of the United States. The town is not a confederacy of school districts (where such exist), nor is the county a confederacy of towns: neither is the Union a confederacy of States. The object of the division of the powers and duties of government among so many officers and districts, is **that the people of each town, county and State may govern themselves in their own way in all matters concerning themselves only**; and this is one of the crowning advantages of the American system. In fact, **local self-government would be impossible under any other plan.** The duties which, under a King, would be performed by thousands of petty officers sent by him into every village to rule the people in spite of themselves, are, in the United States, divided by the people among the officers elected by themselves, **town by town, county by county,** and **State by State,** to serve them in the manner prescribed by law. **Each State is a complete Republic, having all the powers of an independent nation, except those granted for special purposes**

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by the people? Are its officers elected by the people? How are the duties of government divided among school district, town, county and State governments? How would the small offices be filled under a monarchy? Does the State form a complete nation in itself? What restriction is there on the powers of a State?

by the people of all the States to the Federal Government, as we shall hereafter explain.

NOTES.—(a) King James the First of England more than once laid it down in his speeches that, "as it is atheism and blasphemy in a creature to dispute what the Deity may do, so it is presumption and sedition in a subject to dispute what a King may do in the height of his power. Good Christians, he adds, will be content with God's will revealed in his Word; and good subjects will rest in the King's will, revealed in his law."

1 Blackstone Com., *238.

LESSON IV.

OF CONSTITUTIONAL GOVERNMENT.

62. *The first step in forming a State Government is the framing and adoption of a written Constitution.*

This is done by a convention chosen by the people of the whole territory for which the Constitution is to be formed. Each county is allowed a number of delegates to the convention in proportion to its population. The Constitution is by these carefully prepared, and when adapted in their judgment to the requirements of the territory, it is published, and the people are called on to vote for or against it. If the majority of the votes cast are in its favor, it is declared adopted, and becomes the fundamental law of the land.

Changing the Constitution.

63. The Declaration of Independence declares "that

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62. What is the first step in forming a State Government? How is a State Constitution formed? How are the delegates to a convention apportioned? How is the Constitution finally adopted?

63. What says the Declaration of Independence on the subject of altering forms of government How are Constitutions altered in the United States?

whenever any form of Government becomes destructive of these ends (of securing the life, liberty and property of the people), *it is the right of the people to alter or abolish it, and to institute a new Government*, laying its foundations on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness."

For the purpose of avoiding the revolution and bloodshed which in Europe have almost always attended change in the form of government, all American Constitutions contain a clause providing how the people shall proceed if they wish to alter or amend them; and this may be done at any time the people desire it, by the mere operation of the ballot. This cuts off in advance all excuse for revolution, and thus secures a peaceful solution of all questions touching a change in the fundamental law.

What the Constitution provides.

64. A. It **states the principles** on which the Government is to be founded. This part of it is called the "Bill of Rights."

B. It provides **who are entitled to vote** at popular elections.

C. It provides for the election of the **Legislature**, which consists of two separate bodies or "houses." One of these is called the "Senate," the other the "Assembly" or "House of Representatives." Of these the Sen-

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64. What does a State Constitution provide? What is a Bill of Rights? What is the usual construction of a Legislature? What are the differences between the two houses? What are the powers and duties of the Legislature? What are the constitutional regulations as to counties and towns? What as to a Governor and Lieutenant Governor? What as to Judges? What as to education, the militia, and general laws? Does the Constitution define the limits of official power?

ate is always the smaller body, and its members are elected for from two to six years. The members of the Assembly are elected for only one or two years. These two bodies assemble at regular periods fixed in the Constitution, to make laws for all the people in the State; and that instrument prescribes how the laws shall be made, and defines exactly what powers are given to the Legislature and to all other officers of the State. It also locates the **boundaries** of the State, and of each county. **In this way each of the small Governments is regulated uniformly with the others,** county with county, and town with town; and all are governed by the same laws.

D. The Constitution provides for the election of a **Governor** and **Lieutenant Governor,** and fixes their duties and powers.

E. It also creates certain **Courts,** or gives power to the Legislature to provide them, so that judges shall be appointed or elected whenever the people may require their services.

F. It empowers the Legislature to **provide for public education,** for the organization of the State troops or "militia," and to pass all necessary civil, criminal and revenue laws; and it either fixes every detail of the machinery of the State government, or gives the Legislature power so to do.

G. It carefully **forbids all public officers to usurp any power not confided to them respectively,** and prescribes, or authorizes the Legislature to prescribe, for their **impeachment,** should they violate this prohibition.

65. We have now seen that popular government begins with the school district, then extends to the town, thence to the county, and from that to the State. We have

also seen that though several school districts form the town, several towns a county, and several counties a State, yet the people in each subdivision elect the various officers thereof, whose duties are fixed by law, and who are responsible to the people. **We have also seen that the State is a complete republic, having all the powers of an independent nation, except those granted for special purposes by the whole American people to the Federal Government or "Union."** We have now to inquire—

66. *What are the nature and purpose of the Federal Government, or Union?*

Its **nature** is not that of a confederacy between independent States, for a **confederacy**, as we have shown (see section 61), **is a league or covenant between independent States, acting in their sovereign capacity.** Such a league or covenant, like a bargain between individuals, when broken by one, no longer binds the others. Such was the old American confederacy, which preceded the present Constitution, and fell to pieces by its own weight before it was ten years old. Such was the Southern view of the Union for many years before the great civil war of 1861, and had it been true, the South would have been justified in attempting to withdraw from a distasteful partnership. But this view is now universally regarded as a mistaken one. **The true nature and object of the American Union consist in the uniting of the people of the whole country into one great nation for certain purposes only.** Those purposes are expressed in those sections of the Federal Constitution which **confine the powers of the General Government to those functions only**

66. What is the nature and purpose of the Federal Government or Union? What is it not? Explain why it is not a confederacy? What is it?

which can be better performed by all the people united than by each State singly, and for itself alone.

67. Thus, each State unaided would be weak in case of war. Even New York would be no match for England or France. But all the States together are strong, and hence European countries are anxious to be at peace with them.

Each State would be grievously taxed to maintain a separate army and navy, and to keep its Ministers and Consuls in foreign countries. But the expense of one army and navy, and one set of Ministers and Consuls falls lightly on them all.

If each State were wholly independent of the others, wars would break out between them, as they continually do among the States of Europe. But all the States being under one General Government, domestic peace is secured.

If each State were to coin its own money, there would be as many different coinages as there are States, which would greatly interfere with commerce (an inconvenience causing great annoyance in Europe.) But one national coinage passes everywhere alike.

68. In the Federal Constitution, therefore, the **people of all the States** gave to the General Government the following exclusive powers:

A. To lay and collect the taxes, duties, imposts and excises, to pay the debts, and provide for the common defense and general welfare of the United States; but all such duties, imposts and excises must be uniform throughout the United States.

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67. Name some of the functions of government which are better performed by one government than by many? How about war? Army and navy? Coinage?

68. Enumerate the powers given to the General Government by the Federal Constitution?

B. To borrow money on the credit of the United States.

C. To regulate commerce with foreign nations, and among the several States, and with the Indian tribes.

D. To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcy throughout the United States.

E. To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures.

F. To provide for the punishment of counterfeiting the securities and current coin of the United States.

G. To establish post offices and post roads.

H. To promote the progress of science and the useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.

I. To constitute tribunals inferior to the Supreme Court.*

J. To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations.

K. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.

L. To raise and support armies.

M. To provide and maintain a navy.

N. To make rules for the government and regulation of the land and naval forces.

O. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions.

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*NOTE.—The Supreme Court of the United States is established by the Constitution. See Art. I, Secs. 1 and 2.

P To make all laws which shall be necessary and proper for carrying into execution the foregoing powers.*

69. *How are the several States prevented from interfering with the Federal Government in the exercise of these powers?*

The Federal Constitution explicitly forbids them to interfere. It also requires the States to perform certain duties alike, so as to preserve everywhere the liberties of the citizens, †just as the State Constitution prescribes uniform regulations to all its own counties and towns.

70. *How, on the other hand, is the Federal Government prevented from intermeddling with the State Governments, or with the rights of the people?*

By the ninth and tenth amendments to the Federal Constitution, which provide that "the enumeration (in that document) of certain rights shall not be construed to deny or disparage others retained by the people;" and that "the power not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

71. You now understand clearly the following principles:

A. **That government by the people means that the people make and maintain the Government in such form and in such hands as suit themselves, through the frequent exercise of the individual right of suffrage.**

B. **That government for the people means that**

*Art. 1, Sec. 9 of the Federal Constitution.

†See Art. 1, Sec. 10, Fed. Constitution.

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69. How are the States prevented from interfering with the Federal Government?

70. How is the latter prevented from disturbing the former?

71. Repeat the principles printed in large type.

A. What is government *by* the people?

B. What is government *for* the people?

the only purpose for which government exists is to protect the lives, liberty, property and happiness of the people, and thereby "to establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to themselves and their posterity."*

C. That the first means used in the United States to carry these principles into practice is **the division of the whole territory into States; of the States into counties; of the counties into towns, and of the towns into school districts,** in each of which certain public officers are entrusted **each with a minute portion** of the Government powers.

D. **That each officer is elected by the voters of the district he represents.**

E. **That each elected officer is accountable for the discharge of his official duties only to the people of the district that elects him;** that is, to his own constituents, and to no others.

F. **That the exact powers and duties of each officer are clearly fixed by law.**

G. **That the several States have nothing to do with each other. The several counties in each State have no right to meddle with each other, nor the different towns in a county, nor the school districts in a town.** But each has the right to manage its own domestic affairs in its own way, under the general

*See preamble to the Federal Constitution.

C. What use is made of political divisions of territory in carrying these principles into practice?

D. Who elects the officers of each district?

E. To whom is each officer accountable?

F. How are the powers and duties of each officer fixed?

G. Have the various political divisions of territory anything to do with each other? Does each manage its own concerns?

constitutions and laws, so long as it does not infringe upon the liberties of the people.*

H. **That the principle of "confederacy" is carefully excluded from the entire American system.**

I. That the United States are all one country; **the relation of the several States to the Union being merely a division between them of the several functions of the Government,** which, if not so divided, would be impossible under the Republican form.

J. **That sovereignty resides in the people, and not in any of the governmental establishments or officials.†**

Now turn back to the diagram representing the American system. Apply the last two chapters to it, and you will find the principle of "Government by and for the people," firmly and clearly fixed in your memory.

LESSON V.

OF CHECKS AND BALANCES IN THE GOVERNMENT.

72. In Section 47, you learned "that the objects of laws in the United States were to protect the people from oppression, whether attempted by individuals or by the government: that power loves to be felt and to

*This statement expresses the doctrine known by the name of "Squatter Sovereignty." See Douglas' Speeches.

†Cal. Political Code, Sec. 30.

H. Is the principle of confederacy admitted in the United States?

I. Are the United States all one country? What is the relation of the States to the Union?

J. Where does "sovereignty" reside in the United States?

LESSON V—72. Repeat the quotation from Section 47?

strengthen itself, and that ambitious men are everywhere found who seek it, and having attained it, then they labor to subjugate their race by every possible means."

73. Now the principal reason why the absolute monarchs of Europe have so grievously oppressed their subjects was, because there was **no check or limit to their power.** And when under the system of "limited monarchy" the Parliament, as in England, during the reigns of several of the kings and queens ending with that of Charles I, in 1648, attempted to curb the aggressions of the prince, a fierce and finally a bloody controversy was waged between them. The kings claimed the unlimited right to tax the people as a part of the prerogative of the crown. When Parliament refused its consent to such taxes, it was repeatedly "prorogued" or "dissolved," so that the King could do as he pleased while it was not in session. Thus, having power through the army to enforce laws made by himself, he would of course make such laws as would increase his power. This has been the almost universal history of king-craft. Even in this century, we have seen the two Napoleons in France, each abusing the too great powers entrusted to him by overthrowing the constitution of that country, and making himself emperor over the ruins of a republic.

74. Now the only way to prevent this abuse of power, and consequent enslavement of the people, is **not to give the whole power of the Government to anybody**; but instead of this to give to each officer just as

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73. Why have Kings been able to oppress their people? What was the cause of dispute between the Kings of England and Parliament previous to 1648? What did the Kings continually seek to do? How did the Napoleons manage to make themselves Emperors in France?

74. State the only way to prevent the enslavement of the people by their governments?

little as will enable him to serve the people in his own department, while another officer shall be set to watch him, and see that he does his whole duty, and nothing but his duty.

75. Thus in all American Constitutions the powers of the Government are separated in three grand divisions, viz:

A. The **Legislative**, which makes the laws under and in accordance with the Constitution.

B. The **Executive**, which sees that the laws made by the legislative department are obeyed.

C. The **Judiciary**, which administers the civil and criminal law, dispensing justice between man and man, punishing criminals, and deciding whether the acts passed by the Legislature are conformable to the Constitution.

Each of the principal officers occupying these several departments is separately elected by the people, and they are not only independent of each other, but they **constantly keep one another in check.** Nor is this interposition of checks and balances confined to the three divisions we have just mentioned: but **it is introduced everywhere,** and in all possible forms, into the administration of each division itself.

THE LEGISLATIVE DEPARTMENT.

76. All legislative bodies, whether of the States or of the General Government (called Congress), are divided into two separate houses. The upper house is called the "**Senate,**" and in the Congress it is composed of two

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75. Into what three grand divisions do American Constitutions separate the powers of government? Describe the functions of these divisions? Is the system of checks and balances confined to the three divisions?

76. Describe the Legislative department? How is Congress composed? How are Senators and Representatives elected?

Senators, elected by the Legislature of each State, who are chosen for terms of six years each. In the State Legislatures, the Senators are elected from larger districts, and for longer terms than the members of the lower house. **In all cases the Senators are fewer in number than the Representatives,** and as it is considered the highest honor in the gift of the people, next to the Presidency or Governorship, to be elected a Senator, the original idea was that **only men of ability, experience and mature years should compose that body.**

77. The **House of Representatives in Congress** is now composed of one member for every 157,109 inhabitants,* provided however that each State shall have at least one Representative, though its population be less than 157,109. The "Members of the Assembly," or lower house of the State Legislature, are generally elected by counties, in numbers proportioned to the population of each.

78. Every bill passed by any legislative body must be concurred in, word for word, by both houses. It must then be signed as approved by the Executive; but if he objects to it, he must within ten days return it, with his objections in writing, to the house in which it originated. This is called the **Executive "Veto"** (a Latin word, meaning "I forbid"). When any bill or proposed law is vetoed, it is necessary that two thirds of both houses shall concur in again passing it, in which case it becomes a law without the approval of the Executive. Thus the Senate and the lower house are each a

*See Federal apportionment of 1871.

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77. How are Representatives in Congress apportioned among the people? How are members of the Lower House in a State Legislature apportioned?

78. Describe the mode of making laws. What is the "Veto" power? How is it exercised? What is its effect? What checks are interposed in the law-making department? How do these checks affect the character of the legislation?

check upon the other, while the Executive is a check upon both. Whatever be the mistake due to the excitement under which one body may act, it is almost sure to be corrected by the conservatism of the other; and a wise Executive may veto a bad measure, though approved by both houses; while a wrong-headed Executive, whose veto is not sustained by his reasons for it, is apt to be set right by the sober second thought of two thirds of both houses.

Thus wisdom, care and prudence are much more certain to characterize our legislation than if there were but one person, like a King or Emperor, or but one legislative body, as in France, having authority to make the laws of the Nation or States.

THE EXECUTIVE.

79. Neither Congress nor any State Legislature has any power to compel the people to obey the laws it may pass.

This duty is confided by the Constitution to the **executive.** The President of the United States is the Federal Executive, and his duty is to see that the laws of Congress and the treaties between the United States and foreign countries are properly observed. For this purpose the President is commander of the army and navy of the United States, and of the militia of the several States when called into the actual service of the United States.* He has the power, by and with the advice and consent of the Senate, to make treaties.

* Art. II, Sec. 2, of the Federal Constitution.

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79. Can the Legislative department compel obedience to the laws it makes? Whose business is it to execute the laws? What are the powers of the President of the United States? Can he make or change a law? Can he declare war? For what purpose is power given to him? Is he himself subject to the laws?

He nominates, subject to the approval of the Senate, Ambassadors, Foreign Ministers, Consuls, Judges of the Federal Courts, Collectors of Revenue, and all other officers of the United States, **but he cannot declare war.** Only Congress has that power. Nor can he make the least change in any law as passed by Congress. All the power that is given him is for the sole purpose of causing the laws to be respected and obeyed by the people. And those laws define his own duties with such exactness that **he can no more wrong a private citizen than the citizen can injure him,** without being equally liable to punishment.

80. The Governor of each State is the Executive thereof, and has powers within his own State analogous to those of the President within the United States. But none of his powers extend beyond the limits of his own State.

81. A part of the duty of the Executive is to inform the Legislature, whenever it assembles, of the condition of all the public affairs of the nation or State respectively and to recommend such legislation as he finds from experience that the public good requires. He can also call extra sessions of the Legislature when he thinks it necessary. He has the power of pardoning convicts or commuting their sentences, which is a check upon any tyranny on the part of the Judiciary.

Being responsible to the people for the good conduct of all the subordinate executive officers whom he ap-

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80. Who is the Executive of a State? Has a State Governor any power outside of his State?

81. What is the duty of the Executive as to informing the Legislature of the condition of the nation or State? Can he make recommendations to it? Can he call the Legislature together when necessary? What check can he exercise upon the Judiciary? What upon his subordinate officers?

points, he has the power of removing them at any time, which is a check upon their behavior while in office.

82. The Executive duties are always divided into departments, each of which is in charge of a separate officer under the President or Governor, but who is superior to all others employed in his department. Thus the Federal "Cabinet" comprises seven chief secretaries, viz:

THE CABINET.

A. **The Secretary of State,** who has charge of the foreign relations of the United States, instructs the American Ministers at foreign courts, and receives the communications of foreign Ambassadors at the Federal capital.

B. **The Secretary of the Treasury,** who has the care of collecting all the revenues and paying out the same, according to the laws of Congress. The system of checks and balances is complete and very complicated throughout this department.

C. **The Secretary of War** presides over all army affairs.

D. **The Secretary of the Navy** has the care of all matters relating to vessels of war, navy yards, officers and men employed in the navy.

E. **The Secretary of the Interior** attends to the surveys and sales of public lands, and to Indian affairs.

F. **The Postmaster General** conducts all the business of the postoffice and the transportation of the mails.

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82. Into what departments are executive duties divided? Describe the Federal Cabinet? What are the duties of the Secretary of State? Of the Secretary of the Treasury? Of the Secretary of War? Of the Secretary of the Navy? Of the Secretary of the Interior? Of the Postmaster General? Of the Attorney General? How are the members of the Cabinet appointed to office? How does the Senate check the President? How are checks applied to all subordinate officers of Government?

G. **The Attorney-General** is the law adviser of the President and Cabinet.

All these officers are appointed by the President, by and with the advice and consent of the Senate, which thus, and in all his other appointments, and in the making of treaties, exerts a powerful check on the Executive. And each member of the Cabinet has clerks, employees and subordinate officers and men under him, some of them in every part of the country—all employed in executing their particular portion of the laws of Congress. *So far as it is possible for human ingenuity to accomplish it, checks and balances are imposed upon every one of all this army of officials, whereby each is accountable to some one or more superiors, or to some other branch of the Government.* **Thus frauds, negligence and oppression of the people are everywhere jealously watched, and generally detected, exposed and punished.**

83. The Executive of each State is assisted by officers named in the State Constitution and elected by the people, such as Secretary of State, Controller, Treasurer, Attorney General and Surveyor General, and their duties and those of their subordinates are arranged on similar principles to those of the Federal officers. The idea of checks and balances is here observed throughout, but of course on a smaller scale than in the business of the United States.

THE JUDICIARY.

84. The powers and duties of the Judges are to

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83. How is the Governor of a State assisted in his duties? Are checks and balances preserved throughout the State governments?

84. What are the powers and duties of the Judiciary? Are the Judges more confined by law than the Legislature and Executive? What relation do the Judges maintain toward the law? What is the privilege of the people as quoted from the Massachusetts Bill of Rights? To whom must the people look for protection?

administer justice, as prescribed by law, in all matters in dispute between man and man that may be brought before them; and to conduct the trial, and decree the punishment of all persons charged with or convicted of crime. They are more strictly confined by law in all their acts than either of the other grand divisions of the Government, **for they are the high priests of the law, its oracles, its defenders, and its expounders.** Their learning, honesty and fearlessness are the supreme safeguards of the liberties of the people, whose privilege it is to find a **certain** remedy by having recourse to the laws for all injuries or wrongs which they may receive in person, property or character. "The citizen ought to obtain right and justice freely, and without being obliged to purchase it—completely, and without any denial—promptly and without delay—conformably to the laws."* It is to the Courts of Justice, of every name and degree, that the people must look for their safety and protection from every assault upon their rights and liberties.

85. Besides these powers and duties, which are common to the Judges of America and of Great Britain and her colonies, **American Courts are entrusted with the grave power of deciding whether the acts passed by the Legislature are "constitutional;"** that is, whether they conform to the State or Federal Constitution, as the case may be. If the Judiciary decide against the constitutionality of any statute, it is no longer binding on the people. **The Courts have also the power**

*See Art. II, Bill of Rights, Constitution of Massachusetts.

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85. What peculiar power is entrusted to American Judges? What is an unconstitutional act? Is such an act binding on the people? What are the powers of the Judges with reference to obscure or contradictory laws? How is the Judiciary a check on the Legislature?

of construing all statutes and of reconciling laws, or parts of laws, that are apparently inconsistent with one another. No other country allows such high powers to its Judges as this; and these powers operate as a powerful check upon Legislatures, whose careless or tyrannical law-making becomes powerless for evil when tested by the touchstone of judicial examination.

APPEALS.

86. The system of appeals provided in our laws furnishes everywhere a complete check upon the injustice that may occur, despite all human precaution, in the decision of any one court. Almost every case may be appealed if there be any legal or technical reason therefor, until two or three examinations or decisions of all the points in different courts shall result in the final rendering of a just judgment.

87. Remembering now the principles stated at the close of Lesson 4, you will bear in mind—

A. **That the American idea of government preserves the liberties of the people, not only by means of the division of its powers and duties, between the Union, the States, the counties, towns and school districts, but also by a distribution of its responsibilities among three separate but co-ordinate departments: the Legislative, Executive and Judicial.**

B. **That "in the government of the commonwealth the legislative department shall never ex-**

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86. What are appeals? Why are they allowed? What is their result?

87. Repeat the principles printed in large type?

A. By what two systems of division does the American system secure the distribution of the powers and duties of government?

B. Repeat the quotation from the Massachusetts Constitution, about the Legislative, Executive and Judicial departments?

ercise the executive and judicial powers, or either of them; the executive shall never exercise the legislative and judicial powers, or either of them; the judicial shall never exercise the legislative and executive powers, or either of them, to the end that it may be a government of laws, and not of men."*

C. That human nature, if trusted with any degree of political power, will seek to abuse that power to the injury of the people. Therefore no unchecked or irresponsible power shall be given to any man or set of men. But a small share of power shall be given to each of a great number of officers, all of whom shall check the acts, and balance the influence of the others.

D. That the President is a check upon Congress, and controls all the subordinate officers in every department of the executive branch of the Government, who are appointed by and responsible to him.

E. The Senate is a check upon the President. So also is the House of Representatives, which may impeach him before the Senate for official misconduct.

F. The Judiciary is a check, not only on crime committed by citizens, but upon the Legislature, whose work it may decide to be unconstitutional.

*See Constitution of Massachusetts, Part I, Sec. 30.

C. What will men trusted with power seek to do with it? How must we prevent the abuse of power?

D. What is the President a check upon? The Senate? The House of Representatives? Do these check each other? Upon whom is the Judiciary a check? The Union? The State? The State government? The Grand Jury? The Legislature? What is the final condition of holding office in the United States?

G. The Union is a check upon the States, and the States upon the Union.

H. The State government, organizing the counties and towns, controls the county and town government.

I. The Grand Jury in each county is a check upon all public officers in that county, whom it may present or indict for offenses against the laws, as well as upon individuals who commit crime.

J. The Legislature is a check upon the Judiciary, for the lower house may impeach any Judge before the Senate for malfeasance in office.

And finally, no public officer is exempt from the watchful scrutiny of some other public officer, or free from the necessity of rendering an account of his stewardship. Nor is it the fault of the laws if delinquents in office escape the penalties provided for offenses.

LESSON VI.

OF THE PRECEDENCE OF THE SEVERAL GOVERNMENTS.

88. We have now seen that under the American system the objects of government are attained without risk to the liberties of the individual, by the division of public powers and duties, and by the careful arrangement of checks and balances. It remains to explain the order in which the several governments take precedence one of another, without which serious conflicts might be expected to arise between them.

TOWNS AND COUNTIES SUBORDINATE TO THE STATE.

89. Though the several school districts, towns and

89. What is the scope of the legislation of towns and counties? Does the scope of such legislation include all the law-making required by the people? What branches of law require uniform legislation for many towns and counties? Why is it impracticable for these small districts to enact such laws?

counties elect their own officers, and to a certain limited extent legislate for themselves at district or town meetings, or through the County Board of Supervisors, the scope of such legislation embraces but a very small part of all the departments of law which affect each individual. You can readily see that, though it is a simple matter for these small districts to provide a schoolteacher, or to repair roads, or regulate fences, the protection of *all* the rights of the people requires a complete system of much higher law than these. There must be the civil, criminal, maritime, military and revenue laws, enacted by some power strong enough to maintain and enforce them. Such legislation by towns or counties, each for itself, would be impracticable in several aspects:

A. It would require as complete a government in each small district as is now required for a State.

B. There would be great differences between the laws of the several towns and counties, causing much local inconvenience.

C. The small districts would not have the power to enforce the laws.

D. The State Government would be superseded, because there would be nothing left for it to legislate upon or enforce.

90. For these reasons **State forms but one commonwealth, having one Supreme Executive, one general Legislature, and one system of Judiciary.** The State Government enacts and executes the civil, criminal and other general laws throughout the State, though the administration thereof is often conducted by the county officers.

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90. Why does each State form a separate commonwealth? What branches of the laws are enacted and executed by the State in all the counties? Is the administration of State laws entrusted to county officers?

91. The towns and counties are formed by the Constitution or State legislation, which prescribes the boundaries, offices and jurisdiction of each. Any change in these particulars of county or town organization can only be made by the Legislature of the State, though such measures are also frequently submitted to the vote of the citizens affected thereby. **The town and county governments are therefore subordinate to that of the State.**

THE STATES SUBORDINATE TO THE UNION.

92. Though the Federal Constitution carefully enumerates the several powers entrusted to the General Government, and forbids to the States the exercise of such as would conflict with them, leaving them otherwise free to enact such domestic laws as they please, yet it often happens that there is a collision between the laws of the two Governments. In order to prevent the consequences of such disagreement, which in Europe would generally lead to civil war, the Federal Constitution provides that "This Constitution and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, **shall be the supreme law of the land**; and the Judges in every State shall be bound thereby, **anything in the Constitution or laws of any State to the contrary notwithstanding.***

93. You see now that confusion is avoided, and per-

*Constitution of U. S., Art. VI, Sec. 2.

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91. What authority constitutes the counties and towns? What government takes precedence of them?

92. What is the provision in the Federal Constitution for preventing collisions between the several States and the Union? Which of these Governments takes precedence of the other?

93. State the order of precedence from the Union down?

fect system secured, by the constitutional order of precedence among the several Governments.

First in authority is the Constitution of the United States.

Second—Acts of Congress and treaties made by the President and Senate with foreign Governments.

Third—The Constitutions of the several States each in its own State only.

Fourth—Acts of the several Legislatures.

Fifth—Ordinances adopted by County Supervisors, or by municipal or town governments.

94. No ordinance passed by a town, city or county government will be binding if it conflicts with a law of the State Legislature or of a State Constitution, or with a law of Congress, or with foreign treaty, or above all, with the Federal Constitution.

No Act of a State Legislature will be valid if it conflicts with its State Constitution, with a law of Congress, with a foreign treaty, or with the Federal Constitution.

No Act of the Federal Congress will be valid if it conflicts with the Federal Constitution.

ORDER IS HEAVEN'S FIRST LAW

95. Thus, as their several moons revolve about the planets, and the planets around the sun, so the towns and counties are kept in their places by the States, and these in turn by the central Government at Washington. By the division and subdivision of territory, by the distribution of powers and responsibilities among numerous officers, and by the precedence of the several Governments, the whole American system is fitted together in such a manner as to accomplish all the ob-

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94. State the limitations to the powers of each government from the town up?

jects of government without any danger to the liberties of the people. It is the greatest monument of State-craft ever erected by human wisdom. As in navigation, men first invented the raft, then the canoe, the galley, the sailing vessel, and lastly the steamer, so their ideas of government progressed slowly and gradually from the military despotism of the savage, up to American Republicanism. When men have so far relapsed into barbarism as to prefer the raft or the canoe to the swift and luxurious, though complicated steamer, then only will it be consistent for them to abandon the highest form of political civilization for the old fashioned and imperfect makeshifts of monarchical misrule. May the day never dawn when chaos shall displace the elaborate and polished order on which depend the peace and progress of our happy people.

NOTES.—Mr. Webster said: "The first object of a free people is the preservation of their liberty, and liberty is only to be preserved by maintaining constitutional restraints and just divisions of political power. *Nothing is more deceptive or more dangerous than the pretence of a desire to simplify government.* The simplest governments are despotisms; the next simplest, limited monarchies; but all republics, all governments of law must impose numerous limitations and qualifications of authority. In other words, they must be subject to rule and regulation. This is the very essence of free political institutions * * * A separation of departments, so far as practicable, and the preservation of clear lines of division between them, is the fundamental idea in the creation of all our constitutions; and doubtless the continuance of regulated liberty depends on maintaining these boundaries."

Works of Daniel Webster, Vol. IV, p. 122.

LESSON VII.

OF REPRESENTATION.

96. The word "**Sovereign**" means "supreme in power; superior to all others; highest in power; chief; independent of, and unlimited by any other; possessing or entitled to original authority or jurisdiction."*

The word "**Sovereignty**" signifies a right to exercise supreme power."*

Now in any form of government in which the people, being subjects, are not consulted by their king, or other rulers, the **sovereignty resides in the Government.**

In Great Britain the Parliament is the sovereign power.† In Russia, the Czar. In Germany, the Emperor.

But in the American system the people are sovereign.‡ Their government is "by and for the people." We have seen that its distribution of powers and duties, and its ever present checks and balances among many constitutions, public officers and districts, prevents either the Federal, the State, or subordinate Governments from enjoying such supremacy as would accord with the definition of sovereignty. **The people therefore being sovereign, their various political institutions are but the creatures of their will, or machines designed for the benefit of those who use them.**

97. *What is an Agent?*

* Webster. † Blackstone, 51.

‡ Cal. Political Code, Sec. 30.

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96. Define the words "Sovereign" and "Sovereignty?" Where does sovereignty reside in monarchical governments? What is the sovereign power in England? Who is Sovereign in Russia? In Germany? In the United States? Why cannot sovereignty be said to reside in any of the American Governments? The people being sovereign, what then are the governments?

97. What is an Agent? What is a Representative? Name some kinds of agency such as you are familiar with?

"One who is entrusted with the business of another—a substitute, a deputy."*

What is a Representative?

"One who represents or stands in the place of another—an agent, deputy or substitute."*

Thus, a lawyer is the agent or representative of his clients for transacting their business before the courts. A commission merchant is an agent or representative of distant parties for buying and selling goods. A bookkeeper is the agent of his employer for keeping his accounts.

98. *What is the maxim of the law on the subject of Agency?*

"He who acts through another, acts himself."†

99. *What saying of Jesus Christ was quoted in Lesson I on the subject of Equality?*

"He that is greatest among you shall be your servant."

100. *What then is representation in the American system?*

It is the sending by the people, who are sovereign, of one man elected as the servant or agent of a great number, to vote and act in their place and stead, in some special and limited capacity, in the city, town, county, State, or Federal Government.

101. *When Representatives have been elected, are they the* MASTERS *of the people, because for the term of their office they are* RULERS?

On the contrary, they are the **servants** of those who send them. And this service is the greater in proportion

*Webster. † *Qui facit per alium facit per se.*

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98. What is the maxim of the law on the subject of Agency?

99. What said Jesus Christ on the subject of personal ambition?

100. What is Representation in the American system?

101. Are the officers chosen to represent the people, the masters or servants of the people?

to the number of citizens whose votes elect the officer. Thus, the Mayor of a city is the servant only of all the people of the city. But the President of the United States is the servant of the whole country.

102. *To whom are all public officers in the United States directly or indirectly responsible?*

To the people—directly, when they are elected, indirectly, when they are appointed.

All members of the legislative branch are elected, except when the Executive is empowered by the Constitution to fill a vacancy. Their responsibility to the people is direct.

The Judiciary are also generally elected, though under the Federal Constitution, and in some of the States, the Judges are **appointed** by the Executive and confirmed by the Senate. Their responsibility is direct when elected, indirect, if appointed.

The Chief Executive is always elected. So also are the executive county officers, and in some of the States, the principal subordinate executive State officers. **But generally, all the minor officers who are under the orders of the Executive, hold their offices by his appointment.** This is especially the case in the revenue service, the army and navy, and in the State civil service. The Chief Executive is directly responsible to the people, but the political responsibility to them of all his subordinates is indirect.

103. *What is meant by representation of representation?*

There is an instrument known among lawyers and business men by the name of "power of attorney." It is a paper whereby one person gives to another the

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102. To whom are all public officers accountable? How? Who are directly responsible to the people? Who indirectly?

103. Explain what is meant by representation of representation.

power or authority to do certain things in his name, and therein to bind him as if he had done them himself—say, to sell land or to receive or pay money. But as the person holding the power of attorney may be sometimes sick or absent, or unable to do all the work without assistance, the document usually contains the words "with power of substitution or revocation," which means that the agent has the power to employ a third person to do the business entrusted to him, at his discretion and at his risk.

Now the power given to certain (not to all) public officers by election, is similar to that in the "power of attorney." And when a third party is employed by an agent, such third party is a representative of a representative, or an agent of an agent.

104. *Does the principle of representation of representation extend throughout the American system?*

It does. Thus all the people do not vote at elections, but this right is confined to men who are above twenty-one years of age. Women and children do not vote, because they are nearly always dependent on a man for support and protection. **As the family is a natural institution, existing before all forms of government, and found everywhere, among savage as well as civilized people, the framers of our Constitution accepted it as they found it, and never thought of interfering with it by making its members politically independent of each other.** So, as by nature the labor and responsibility of supporting and educating the family devolve upon the man, the burdens of citizenship were by law added to his cares; and the head of the family was assumed to vote as the **natural representative** of his wife and children.

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104. Does this principle extend throughout the American system? Give some instances of it

The members of all legislative bodies, the Chief Executive and Judicial officers are elected by the votes of men, **who cast their ballots partly as representatives of their families.** All elected officers are therefore representatives of representatives, so far as the families of voters are concerned.

But the State Legislatures elect United States Senators. Hence, **the Senator so chosen is a representative of the Legislature, whose members represent the citizens, who represent their families.**

Again, the President and Senate appoint all the principal collectors of revenue throughout the country. These collectors appoint their own clerks and inspectors. Here the same principle is applied to the fourth and even fifth degree. But the clerks and inspectors are responsible to the collectors who appoint them. The collectors are responsible to the President, and the President to the people. Besides this **political** responsibility which regulates the tenure by which subordinate officers hold their places, they are held to direct **legal** accountability to the people **through the courts,** if guilty of embezzlement, fraud, or other crime or misdemeanor while in office.

105.—*Why are not all Government officers elected by the people?*

Because responsibility to the people only, being but a political and moral, and not a direct, pecuniary responsibility, is too remote to be of itself a sufficient safeguard against malfeasance in office. Because the system of checks and balances requires discipline in the Executive Department, which could not exist if each officer were independent of all others and accountable only to the

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105. Why are not all public officers elected by the people?

people. It is necessary for the dispatch of public business that the chief officer should have power to select his own assistants, and to discharge them at once in case of insubordination or dishonesty. Otherwise, he could not himself be held justly responsible for his own administration.

Furthermore, if the attention of voters at elections were distracted by a multiplicity of candidates, while their choice were limited by party nominations, bad men would be more likely to be chosen to office than when subordinate positions are filled by an Executive who can be held responsible by the people for his selections.

106.—*Are all public officers in the United States paid for their services?*

The principle herein is, that "every free man, to preserve his independence, if without a sufficient estate, ought to have some trade or calling whereby he may honestly subsist";* that as all offices cannot be filled with rich men, which would at once create an aristocracy, the State has no right to compel the individual to sacrifice his time and talents to the public good without a compensation at least equal to what he could earn in private life. **Hence, all those offices requiring any considerable portion of time and skill are accompanied by a proportionate salary or fees.**

There is great care taken, however, that the emoluments of office shall not be excessive.

There is also a class of offices requiring but small expenditure of time, which are deemed sufficiently paid by the **honor** they confer upon the office-holder.

Thus the positions of County Supervisors, City Alder-

*Constitution of Vermont, Chap. 11, Sec. 25.

106. What is the principle on the subject of paying salaries to public officials? Are any public offices merely honorary? Name some of them?

men, Town Selectmen, and members of the Boards of Education, are generally offices of honor.

107. *Why are all terms of office* SHORT *in the United States?*

A. Because men elected or appointed for a long time or for life, no matter how honest they may be at the beginning, would by and by be tempted to tyrannize over the people, and probably try in some unlawful manner to retain or increase their power.

B. Because, in the event of a bad man's election or appointment, he can do but little harm during a year or two, while if he were not removable for many years, he might rob or oppress the people, perhaps even to the point of provoking revolution.

C. Because frequent elections keep the people watchful of public men and measures. Society, like water and air, requires frequent agitation to keep it pure. If elections occurred too far apart, designing men would have too much time in which to plot their own advancement at the public expense.

D. Because newly elected men will more faithfully carry out the people's wishes than those who have held office long enough to forget their accountability to the people. "The new broom sweeps clean."

108. *What says the Declaration of Rights of Massachusetts on this subject?*

"In order to prevent those who are vested with authority from becoming oppressors, the people have a right, at such periods and in such manner as they shall establish by the frame of government, to cause their

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107. Why are all terms of office short in the United States? State all the four reasons given in the text?

108. What says the Constitution of Massachusetts on this subject? What says that of Maryland?

officers to return to private life, and to fill up vacant places by certain and regular elections and appointments."*

What says the Constitution of Maryland?

"That a long continuance in the executive departments of power or trust is dangerous to liberty; a rotation therefore in those departments is one of the best securities of permanent freedom."†

109. *What is the attitude of public officers in the United States toward the People?*

They are in every sense the servants of the public, that is of the **whole** public, **regardless of the party or friends who elected or appointed them. The whole people** have enacted the Constitution which has created the offices, and pay the taxes or fees which furnish the compensation for work done **for the whole, not for a portion of the people.** Consequently the officers **must work for the public, not for themselves or their private friends.** No officer can lawfully hold his office for any longer time than that for which he was elected or appointed. But if he be ambitious to serve the public well, they can, and generally will reëlect him, or promote him to a higher office. **Good service to the public is the only avenue to the gratification of honest ambition in our country. Dishonest ambition can never be indulged without corrupting or destroying the system of government, for such ambition is the arch enemy of human liberty.**

110. *All public officers of every name and degree are pub-*

*Part I, Sec. 8. †Maryland Declaration of Rights, Sec. 31.

109. What is the attitude of public officials in the United States towards the people? Are they at liberty to use their offices for their own or their friend's benefit, at the expense of the public good? What is the only avenue to the gratification of honest ambition? What is the consequence of dishonest ambition? Why?

110. Are public officials all sworn to do their duty? What is the nature of this oath? What crime is committed by taking a false oath, or violating an oath?

licly sworn to do their duty according to the Constitution and laws. What is the nature of this oath?

It is solemnly calling God to witness that the person taking it is sincere and honest in his intention to perform his whole duty in accordance with the requirements of the authorities creating his office. Whoever violates an oath is guilty of moral **perjury.**

111. *What offenses does that office-holder commit who uses his position to steal the public money; who sells or trades his vote as a legislator; or who wilfully in any manner sacrifices the good of the people to his own or his friends' private advantage?*

Several offenses are involved in every such action. 1st. Moral perjury in all cases, for he violates his oath of office. 2d. Breach of trust. 3d. Larceny or theft. 4th. Treason to the Constitution. 5th. Injury to the rights and liberties of the people. And there may be a repetition of these crimes in the same act, or there may be other offenses committed, according to the nature of the malfeasance.

Remember this, that no man can betray his trust as a public officer in the United States, without being of a nature so contemptible as to be a fit associate only for thieves and the outcasts of society. Whatever there is of honesty, manliness, patriotism, conscience and honor in the human character cries out aloud for strict fidelity in trusts of this nature. No man can be capable of betraying them without first parting with every virtue that makes him worthy the name of an American citizen!

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111. What offenses does the office-holder commit who uses his position to steal the people's money, who sells or trades his vote as legislator, or benefits himself or friends at the public expense? What is the character in the man who is capable of violating his trust as a public officer in the United States?

NOTES.—(a) The Constitution of Vermont declares "that all power being originally inherent in and consequently derived from the people, all officers of Government, whether legislative or executive, are their trustees and servants, and at all times in a legal way accountable to them."—*Chapter* 1, *sec.* 6.

The Declaration of Rights in the Massachusetts Constitution uses the same language, but using the words "substitutes and agents," instead of "trustees and servants."—*Part* 1, *sec.* 5.

(b) The Constitution of Vermont provides that "whenever an office, through increase of fees or otherwise, becomes so profitable as to occasion many to apply for it, the profits ought to be lessened by the Legislature. And if any officer shall wittingly and wilfully take greater fees than the law allows him, it shall ever after disqualify him from holding any office in this State, until he shall be restored by act of legislation."—*Chapter* 2, *sec.* 25.

LESSON VIII.

OF FREE OPINION AND PUBLIC OPINION.

112. In Lesson I, Secs. 28 and 32, you learned that "*the principal object of the American form of Government is to secure the political liberty of every human being,*" and that "*political liberty is the freedom to every individual to do as he pleases, so long as he does no evil to any one else.*"

The numerous declarations and prohibitions in the Bills of Rights of the several States seem useless to native-born Americans of this generation, accustomed as they are to live in the secure enjoyment of their liberty under the protection of a Government framed on the principle above quoted. Never having felt the weight of the old tyranny out of which our fathers so slowly and painfully educed the Code of American Ideas, and not being much inclined to study the history of the

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112. State the two principles quoted from Lesson I?

past, the masses of our people are apt to forget the suffering entailed upon our progenitors by a muzzled press, prohibition of free thought, of free speech, of free association and communication. We ignore the tyranny of a State Church, of religious persecution, of orders of nobility, of taxation without representation, of military rule, of legal monopolies, of inquisitorial trials, of forced loans, of popular ignorance, and of the rights of conquest. There is but little in the circumstances of this generation to remind us that these things ever existed; and by this very ignorance we are liable to the gradual revival, at the hands of ambition and intrigue, of all the evils from which the wisdom of our ancestors has thus far protected us. To explain the meaning of the principal ideas contained in American constitutions and laws, and thus forewarn the coming citizen of the dangers to which political liberty is always exposed, is the chief design of this work.

113. *Can any one be free who is not allowed to* THINK *as he pleases?*

Clearly not. "As a man **thinketh** so **is** he." Man was created in the image of God. He is endowed with mind and soul. He has reason, understanding, memory, imagination, invention, and other faculties which are immortal. By the use of these talents he must make a living for himself and those dependent on him in this world, and according to their development he expects his future existence to be happy or miserable.

114. *But some men are better thinkers than others, or have had more time and opportunities to learn. Why would it*

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113. Can any one be free who is not allowed to think as he pleases? Why not?

114. Why ought not the best thinkers be allowed to compel others to believe them? Have men a right to interfere between any man's thoughts and himself or his Maker? Can the attempt to regulate opinion by force succeed? What does it result in?

not be better therefore, that such minds should do all the thinking, and the rest be compelled to believe them?

Because each man is responsible for his own thoughts only to himself and his Maker. The power to think exists in every healthy mind; and when God has given this power, and made the happiness of every man and his dependents contingent upon the use he makes of it, is not for any other man to deny him the right to exercise it.* **Indeed, the attempt to make men think alike by force, while it is the vilest kind of tyranny, can never succeed. It only makes them hypocritical and deceitful, and a nation of hypocrites can never be free.**

115. *But in a society where every man does his own thinking, must there not be great differences of opinion, leading to error, to sectarianism, to party feeling, and thus endangering the public peace?*

The law of Nature, which America has made the law of the land, provides a remedy for all such differences, without the necessity of any interference by force. This is the **equal right all possess of enjoying individual opinion.** Cromwell said: "Approbation (*i. e.*, approving what one hears) is an act of conveniency, not of necessity. Does a man speak foolishly? Suffer him gladly, for ye are wise. Does he speak erroneously? Stop such a man's mouth with sound words that cannot be gainsaid. Does he speak truly? Rejoice in the truth."†

116. Every man has the right to disprove what he

* "Prove all things, hold fast to that which is good."—I Thess., v: 21.
† 1 Thurloe, 161.

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115. Must not freedom of opinion lead to confusion and discord in society? Why not?

116. Have men the right to disprove one another's errors? What decides between them? Quote the proverbs about Truth? Can any one's opinions injure another in such a way that society is justified in interfering? In what case only can the State interfere?

thinks is another's error, and the universal reason or common sense in the hearers of both parties will generally decide which of the two is right. "**Truth is mighty and will prevail.**" "**Truth, crushed to earth, will rise again.**" Contests of thought are mental combats. No man's mere opinions can injure any one who is not forced to receive them. The State has no right to punish what does no injury to another. **But if the holding of an opinion leads its votaries to break or oppose by violence the laws of the land, then the power of the State will be used, not to crush the opinion, but to put down the violence that has resulted from it.**

117. *We have already seen that the American Government is a system of institutions created by the people and for the people, and that the men who administer the Government, as well as the laws they make and execute, must be such as the people choose. Now, could the people have any choice in such matters unless each individual had the right to think, speak and act as he pleased?*

Certainly not. These rights must be universal and inalienable, or tyranny would at once result. If one part of society had the power forcibly to compel the silence of the remainder on any subject, the liberties of that remainder would be at the mercy of the others. De Tocqueville says: "Society can only exist when a great number of men consider a great number of things in the same point of view—when they hold the same opinions upon many subjects, and when the same occurrences suggest the same thoughts and impressions

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117. Could American institutions exist without freedom to think, speak and act on the part of every person? What would result if some could enforce silence upon others? Can people think as a society without the freedom to think as individuals?

on their minds."* **Now a people cannot think as a society, unless they have the power and liberty to think as individuals.**

118. *What is Public Opinion?*

"Public opinion is nothing else than the result of individual opinions modified by one another."† It is distinguished from private opinion by being **the opinion of the majority.**

119. *What is to be understood by the political proverb, "The voice of the people is the voice of God?" (Vox populi, vox Dei)?*

It means that as the God-like attribute of reason is inherent in each individual, so the united reasoning of many individuals on the same subject, after such discussion as shall have neutralized one another's passions and prejudices, must be nearer right than any other human authority.

120. *Is the authority of public opinion generally respected outside of the United States?*

It is not. Even in England, it was never recognized at all until the revolution which dethroned Charles I in 1648,‡ since when, its progress has been so slow and gradual, that in the 19th century its most persistent efforts among the people and in the House of Commons, are continually defeated, or at least checked, by her time-honored aristocracy in the House of Lords. And

*Democracy in America, p. 424. † 1 Lieber's Pol. Ethics, p. 257.
‡3d Bancroft, 10.

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118. What is Public Opinion?

119. What is meant by the proverb, "The voice of the people is the voice of God?"

120. Is the authority of public opinion generally accepted outside of the United States? How is it in England? How on the continent? What do the adherents of Divine Right think of it? What do they predict for the United States? What does our history prove in opposition to them?

though on the Continent the people have so far been inspired by the example of the United States as to claim constantly more and more of their natural rights, the day seems still distant when public opinion will be recognized as the **only** foundation of the Government. This idea has still much to contend with in the teachings of the doctrine of "divine right," whose devotees deride the notion that wisdom can reside in the breasts of the common people. **These claim that the truth is to be learned only from the authority of the past, and that the men of the present have only to obey, without daring to examine for themselves whether the dogmatic utterance that commands them be entitled to their respect.** Such teachers deny that under a "mob government," as they call ours, their can be anything permanent, safe, true or honest. War-worn for generations as they are themselves, they are continually predicting for us rebellion, discord, civil commotion and anarchy. That these prophets of evil have been steadily disappointed (with but one exception) during nearly a century of domestic peace; a century witnessing in the United States the most wonderful growth ever attained by any nation in a similar period, is practical proof that our institutions are based upon everlasting truth.

121. *You stated that "Public Opinion is nothing else than the result of individual opinions modified by one another." Now what freedom other than that of individual thought is necessary that men may exchange their ideas, so that their modification by one another may form public opinion on any subject?*

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121. What freedoms are necessary to the formation of public opinion? What is freedom of Speech? Of the Press? Of Assembly? Of Communication? Of Association?

A. **Freedom of Speech,** which is the free right of saying what one pleases, both in private and in public, so long as he does not injure another by slandering him, or indulge in vulgar or obscene language.

B. **Freedom of the Press,** which is the free right to print and publish in any manner whatever one chooses, though it be against the Government: subject to penalties for libeling individuals or corrupting the public morals.

C. **Freedom of Assembly,** which is the free right to hold meetings for any and all objects, so long as such meetings are not held for riotous purposes, or intended to break the public peace.

D. **Freedom of Communication,** which is the free right to travel at one's own pleasure, and to send letters and publications through the public mails or otherwise, without any risk of having the correspondence opened, read or appropriated by any other than the person to whom it is addressed.

E. **Freedom of Association,** which is the free right of choosing one's own associates, and of forming societies, clubs, parties or corporations for any purpose not inconsistent with the laws, or designed to interfere with the rights of others.

122. *Upon what basis rest all American Constitutions, laws and institutions, whether political or social?*

Upon Public Opinion.

NOTES.—"There is a force which cannot be enclosed by laws, which, when need be, can dispense with institutions (as in the case of Lynch Law and Vigilance Committees, H.)—it is the force of ideas, of the public mind and opinion."—*Guizot's Hist. of Civ. in Europe,* VI. 107.

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122. Upon what basis do all American Institutions rest?

"I know one," said Talleyrand, "who is wiser than Voltaire, and has more understanding than Napoleon himself, and all ministers whoever were, are and will be, and this one is 'Public Opinion.'"—1 *Lieber Pol. Ethics*, 257.

"The Anglo-Americans acknowledge the absolute moral authority of the reason of the community, as they acknowledge the political authority of the mass of the citizens: and they hold that public opinion is the surest arbiter of what is lawful or forbidden, true or false. The majority of these believe that a man will be led to do what is just and good by following his own interests rightly understood. They hold that every man is born in possession of the right of self-government, and that no one has the right of constraining his fellow-creature to be happy. They have all a lively faith in the perfectability of man; they are of opinion that the diffusion of knowledge must necessarily be advantageous, and the consequences of ignorance fatal. And they all consider society as a body in a state of improvement; humanity as a changing scene in which nothing is or ought to be permanent; and they admit that what appears to them to be good to-day, may be superseded by something better to-morrow."—*De Tocqueville*, 425.

This description of American peculiarities would not have been written by the observant Frenchman, had not his book been addressed to his own countrymen, whose ideas on this subject he implies to be in perfect contrast with ours.

LESSON IX.

OF FREE SPEECH, FREE PRESS AND FREE ASSEMBLY.

123. The first amendment to the Federal Constitution reads: "**Congress shall make no law abridging the freedom of speech or of the press, or the right of the people peaceably to assemble and to petition the Government for a redress of grievances.**"

123. Repeat the quotation from the Federal Constitution on the subject of Free Speech, Free Press, and Free Assembly? What says the Constitution of New York on this topic? What says the other State Constitutions?

The Constitution of New York says: "Every citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right, and no law shall be passed to restrain or abridge the liberty of speech or of the press.*

The Constitutions of all the other States contain clauses expressing the same idea in nearly the same words.

124. *Why are the principles of free speech, free press and free assembly, so universally and clearly stated?*

A. **Because under a Government existing only by virtue of public opinion, it is necessary that the people should freely communicate with one another in order to agree on the men to be elected, and the measures to be adopted for the common good.** Through free speech addressed to a free assembly, one man may talk to thousands. Through a free press circulated by free communication, he may influence tens and hundreds of thousands. Without either, the thoughts of each man, like prisoners each in his own cell, could hold only whispered converse with one another.

B. **Because it is necessary that all the doings, and especially the misconduct of the public servants should be constantly reported to their employers—the people.** It is through the press that we receive the accounts of their stewardship. If the press were not free, the public liberties might be attacked without the people knowing it until too late.

C. **Because the individual intelligence necessary to form sound public opinion requires the universal reading of what has been said or done or discov-**

* Art. I, Sec. 8.

124. Why are these principles so universally and clearly stated? State the substance of the reasons given, using your own language?

ered in the world. This cannot be unless the press be free.

D. **Because tyrants, like the owl or the mole, operate only in the dark.** "Men love darkness rather than light, because their deeds are evil."* The light of free publicity drives before it the machinations of all public enemies. Acts of tyranny, being made known to all the people, would speedily cease their assaults upon individual liberty.

125. *In what countries besides the United States are these three rights guaranteed to the people?*

Only in England and her colonies. In all countries ruled by absolute monarchs, neither of them is allowed. Especially are newspapers in such countries placed under the supervision of the police. Absolute or despotic Governments are always in danger from active and intelligent minds among their subjects, who if allowed, would labor to bring others to their way of thinking; thus forming conspiracies and causing revolutions, which would tend to overthrow the Government. Hence the publication of newspapers in those countries is permitted, only on condition that nothing shall be printed therein which may displease the Government. If this condition be broken, the editor is fined or imprisoned; and as a final punishment, his paper is stopped by the police.

No book is allowed to be printed in such countries unless it be previously approved by Government censors, who refuse permission to print if it contains anything

*John iii: 19.

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125. In what countries are these rights guaranteed? How is it in Continental Europe? Under what conditions are newspapers printed there? How are books printed there? Are all books, papers, and periodicals allowed free circulation there?

obnoxious to the ideas of the Court. Books and periodicals published in free countries are often refused admission into certain European States. Napoleon III of France was very jealous on this subject.

126. *What is the office and influence of the newspaper in the United States?*

The American newspaper is as indispensable to our institutions as air is to the lungs, or the sun to the organ of sight. It gathers from all quarters of the world the materials for cotemporary history. Under the name of "news," it photographs all passing events, and holds them up before the eye of the nation as if painted in an ever-moving panorama. Controlled by the most active minds among the people, it informs them of war and peace, of the dealings of Governments, of the movements of commerce, the triumphs of invention, and of progress in the arts and sciences. **In politics it is almost omnipotent.** Taking in hand the candidate for office at the moment he enters public life, it scans his every act and divines his most secret motives. It exalts him at will into a hero or degrades him into a felon. It reports his speeches, records his votes, commends or criticises his course to his constituents. It catches the fleeting rays of public sentiment, refracts them in its powerful lens, and then like a revolving light it reflects them back again intensified a thousand fold, over the whole space within its horizon. As the established organ of public opinion, it has almost supplanted the platform and the pulpit. Sometimes erroneous, sometimes

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126. What is the character and influence of the newspaper press in the United States? What is included under the term "news"? What power has the newspaper in politics? How does it reflect public opinion? How are its faults counteracted? To what is the newspaper compared in the text? What would result in the United States if newspapers were suppressed?

bitter and spiteful, it would attempt mischief in some quarters if not counteracted by truth from another direction. Even when recklessly partisan, the faults of each side, neutralized by the other's efforts, fall harmless on the public mind. The newspaper press in America is the nervous system of the body politic. But the nerves can give no sensation, nor quicken the limbs, unless they be **free to act.** If they be bound or injured, the limbs fall helpless and palsied. **Unless the press be free, public spirit must cease,** for the great means of "modifying individual opinions by each other" would be taken away. **And thus, in the absence of public opinion, the commonwealth, unsuspicious and ignorant of its true condition, would fall a prey to the intrigues of personal ambition.**

127. *What passage of Scripture suggests the American idea of free and universal publicity.*

"There is nothing covered that shall not be revealed, and hid that shall not be known. What I tell you in darkness, that speak ye in light. And what ye hear in the ear, that preach ye upon the house-tops."*

128. *Is the right of free assembly acknowledged by Monarchical Governments?*

Under all Governments maintained by force no such thing as a political meeting can take place, except in secret, and then, if detected, it would at once be broken up by the soldiery, and the persons composing it would be sent to prison. So fearful of conspiracy are some of the rulers under that form of government,

*Matthew x: 26, 27.

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127. What text from scripture suggests the American idea of publicity?

128. Do Kings generally recognize the rights of free assembly? What assemblies are permitted under Monarchical Governments, and how are they watched and treated?

that if more that three persons are seen talking together in the street they are dispersed by the police.* Large assemblies of the people are there permitted only at church or at places of amusement, and then they are closely watched by the Government agents or spies.

129. *We have quoted the clause from the State Constitutions, allowing to every individual the freedom of speech and of the press, "he being responsible for the abuse of that freedom." In what does that abuse consist?*

"Political or civil liberty (see Section 32) is the freedom to every individual to do as he pleases, so long as he does no evil to any one else." The freedom of speech and of the press is limited, by our Constitutions, precisely according to this definition. And the abuse of this freedom consists in speaking or writing injuriously about another person, whereby his or her honesty, integrity, virtue or reputation is impeached, or his natural defects are published, thus exposing such person to public hatred, contempt or ridicule. Such language, when merely spoken, and resulting in a specific injury to the person spoken of, is called "slander." When written and published it is called "libel." A person guilty of either may be sued for damages by the injured party; and libel is moreover treated as a crime or public offense, and subjects the offender to a criminal prosecution, followed by fine and imprisonment.

130. *Is there any limitation to the freedom of the press other than the laws against libel?*

Yes. Any obscene, low, and vicious publication,

*See Washburne's History of Paraguay, 1871.

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129. In what does the abuse of the rights of free speech and free press consist? What is slander? Its punishment? What is libel? Its two punishments?

130. Is there any other limitation to the freedom of the press than punishment for libel? What?

whose object is to corrupt the public morals, can be suppressed, and its writers and publishers punished like other offenders against the laws.

131. *Are there any persons privileged by law to use any language they please, without being responsible for the abuse of that liberty?*

Yes. The Federal Constitution,* speaking of Senators and Representatives in Congress, says, "for any speech or debate in either house, they shall not be questioned in any other place."

The Massachusetts Declaration of Rights says:† "The freedom of deliberation, speech and debate, in either house of the Legislature, is so essential to the rights of the people, that it cannot be the foundation of any accusation or prosecution, action or complaint in any other court or place whatsoever." The same privilege is yielded of necessity to all members of Legislative bodies throughout the country. It is also accorded to lawyers when pleading for their clients in court. No matter how bitter or injurious his speech against the opposite party or his witnesses, the lawyer cannot be punished for it. For if he gains his case, it will all be presumed to be true, and therefore necessary in obtaining justice; and if he loses his case, the judgment rendered against his client by the court will render harmless what will then appear to be false.

132. There is also greater latitude allowed to newspapers in their criticisms of all public characters—such as public officers, performers, authors, speakers and

*Art. 1, Sec. 6. †Sec. 21.

131. Who are privileged to say what they please without limit? Why? Quote from the Federal Constitution? From the Massachusetts Declaration of Rights?

132. Whom may the newspapers criticise with the greatest freedom? What is the limit of criticism of a public character? What its justification? Quote from the law of libel?

writers, than in relation to private persons, so long as that criticism be applied only to their relations to the public. The criminal law of libel provides that in all prosecutions for that offense, "the truth may be given in evidence to the jury, and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives, and for justifiable ends, the party shall be acquitted." * In writing concerning Government officers, and of others who serve, amuse, or make their living off the public, the public good often justifies the use of language that would be punishable as libelous if used concerning a private person.

133. *Why is it that the freedom of speech, of the press and of assembly are the great means of strengthening and perpetuating our form of Government, while they are so much feared by despotic Governments?*

Because with us the people are the rulers, and these rights accorded to the people are exercised by the only source of power in the Government. Hence they are with us only the tools of the workman, without which he could not exercise his calling. **But under monarchies, the rulers and the ruled constitute separate strata in society, the one above the other.** Should the lower stratum, *i. e.*, the people, be allowed the use of the means of public agitation, they would soon turn them into weapons for the destruction of the upper stratum. Hence the fear on the part of the rulers, of permitting any privilege which might bring the people to one mind in opposition to their own. With

*See the Statutes of any State on Law of Libel.

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133. Why are free speech, free press, and free assembly the bulwarks of our form of Government, while they are hostile to despotism? Explain this fully in your own language?

Kings and Emperors, as with men in general, "self preservation is the first law of nature."

134. *To what extent are the doings of public officers published in the United States?*

Every word uttered and vote cast in meetings of Congress and of all other legislative bodies is taken down by short-hand reporters, and immediately published throughout the Union, or State or city interested therein. Every act and proclamation of the Executive and heads of departments, every decision of every court of record, and the movements of the army and navy, except where information would thereby be given to the enemy, are also forthwith published. And this is not merely allowed as by courtesy on the part of public officers. **It is frequently made obligatory upon them by law,** and in all legislative halls, in courts of justice, and public offices, provision and accommodation is always made for the use and convenience of the press. **In this manner only can the people know how their servants in the Government are doing their duty.**

135. *How is all this under other Governments?*

In England and her colonies, the reports of public proceedings are nearly as full as our own. But on the continent of Europe there is no publication allowed, except of so much, or rather so little, as the authorities see fit to communicate. Of the details of Government acts, and especially of the measures intended, or in progress, the people, whose right to be consulted is not there recognized, know absolutely nothing.

NOTES.—"The first fair play was given to a free press in the Netherlands."—*Leiber's S. G. and C. L.* 89 *n.*

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134. To what extent are the acts of public officers published in the United States? State fully?

135. How is this under other forms of government?

"On September 20th, 1647, it was decreed by the republican government of England (under Cromwell) that no book henceforth be printed without previously being read and permitted by the public censor, all privileges to the contrary notwithstanding. House searches for prohibited books and presses should be made, and the postoffice should dispatch innocent books only. All places where printing presses might exist should be indicated by authority. Printers, publishers and authors were obliged to give caution money for their names. No one was permitted to harbor a printer without permission. Book itinerants and ballad singers were whipped and imprisoned." *Leiber's S. G. and C. L.* 94.

This law drew forth from the celebrated John Milton his "Speech for the liberty of unlicensed printing," one of the most cogent arguments in opposition to tyranny ever written. *See Milton's Prose Works.*

"The liberty of unlicensed printing was first and finally granted in England about 1688."—*3d Bancroft*, 11.

"In 1692 the colonial press, in spite of royal instructions, was generally as free in America as in any part of the world."—*3d Bancroft*, 102.

JOURNALISM IN AMERICA.—On the 1st of January, 1835, there were 1,258 daily, semi-weekly, and weekly newspapers issued; with these commenced the independence of the press. With all the struggles, failures and successes of the press, this was a great result. In 1870 there were published in the United States 542 daily and 4,425 weekly newspapers. The number of copies of the daily papers printed in that year reached, in round numbers, 800,000,000. The issue of the weekly publications amounted to 600,000,000 copies. All other publications printed 1,000,000,000 copies. The aggregate issue in that year of all political and literary periodicals of the country was over 2,500,000,000 copies. What an astounding exhibition! Let us look at the comparative results since 1704:

NEWSPAPER AND PERIODICAL CIRCULATION IN THE UNITED STATES.

Years.	Newspapers and Periodicals.	Copies annually printed.	Population.
1704	1	16,000	600,000
1725	4	170,000	1,000,000
1775	37	1,200,000	2,800,000
1810	359	22,321,700	7,239,814
1828	852	68,117,796	12,000,000

Years.	Newspapers and Periodicals.	Copies annually printed.	Population.
1835	1,258	90,361,000	14,000,000
1840	1,631	195,838,673	17,069,453
1850	2,526	426,409,978	23,191,876
1860	4,051	927,951,548	31.445,080
1870	5,871	2,508,548,250	38,555,753

It is estimated that the number of copies of newspapers printed in Great Britain in 1870 was 350,000,000, and the same in France. The census returns show that over 2,500,000,000 were issued in the United States in the same year. The following table shows very clearly how far in advance of every other country we are, in respect at least to numbers, in periodical literature. The figures give the number of newspapers and other periodicals published in 1870 in every part of the world:

Great Britain	1,456	Norway and Sweden	184
France	1,668	Netherlands	174
Prussia	809	Switzerland	394
Austria	650	Egypt	7
Other German States	467	Africa	14
Russia	337	Asia	30
Italy	723	Turkey	8
Spain	306	Other parts of the world	150
Belgium	194		
Portugal	26	Total	7,642
Denmark	96	United States	5,871

At the present rate of increase, in ten years there will be more newspapers and magazines published in the United States than in all of the rest of the world combined. Indeed, the *American Newspaper Directory* of 1872 gives the aggregate number of periodical publications in this country at 6,432, only 1,200 less in that year than in all other parts of the world. Our growth, as a nation, is more rapid; then, with common schools, churches, politicians, theatres, lectures, libraries and reading-rooms everywhere, there is a greater demand for cheap literature and cheap reading.—*N. Y. Times' Review of Hudson's Book.*

LESSON X.

OF FREE COMMUNICATION.

136. In Lesson 8, on Free Opinion and Public Opinion, you learned that freedom of communication was one of the means required for the formation of public opinion. And this right was defined as "the free right to travel at one's own pleasure, and to send letters and publications through the public mails without any risk of having the correspondence opened, read or appropriated by any other than the person to whom it is addressed."

How does this freedom compare with that allowed under Monarchical Governments?

In Great Britain and her colonies the people are as free in this respect as our citizens. But throughout the continent of Europe until since 1860, all travelers were looked upon with suspicion, and were jealously watched and traced from place to place, and country to country, by the police. No stranger was permitted to enter any frontier town unless he had a "passport" issued by the authorities of his own country; that is, before he left home he must have prepared himself with a paper "character" telling who he was, whence he came, his age, business and general appearance, and this had to be countersigned by the minister in his own country of that he desired to visit. This paper had to be continually shown, like a ticket on a railway, and countersigned by various officers in the different places as he visited them. Should he have lost this passport, or should any mistake have occurred about it, he would be detained perhaps for

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136. Is free communication a necessary means of forming Public Opinion? Why? Without it, how could the people in the various states or countries learn each other's opinions? How do you define free communication? Does this freedom exist in Europe? Describe the passport and its object?

weeks or months until he could find it or rectify the error; being meanwhile as carefully watched as if he were an escaped felon or a conspirator.

137. But in the United States any one, native or foreigner, may enter or leave the country, or any State, county, city or town, without being obliged to answer any questions, and without meeting any person having a right to stop him, except he be arrested for some offense against the laws.

138. *What has been the result of the realization of this idea of free communication upon travel and trade in the United States?*

The freedom of travel, coupled with the universal desire of mankind to enjoy that freedom, has so stimulated the construction of lines of communication that all parts of the country are now brought within a few days' travel of each other. In the item of railroads, there are more miles completed within the United States than in all the rest of the world combined. On January 1st, 1870, there were 76,366 miles of these roads built and in process of building in our country; the cost of which was estimated at $2,212,412,719, or a sum equal to the national debt* at that date.

All of these have been commenced since 1827. There have also been constructed 3,236 miles of canals, at a cost of $90,984,951.† Besides which, the thousands of miles of navigable rivers and lakes swarm with steam-

*One Hundred Years' Progress of the United States, p. 216.
†Ib., pp. 189, 190.

137. Are passports required in the United States? Is there any restriction to travel in our country? What?

138. What has been the result of the idea of free communication in the United States? How many miles of railroads are there? What did they cost? How many miles of canals? What did they cost? What about steamboats? Stage roads? What is the result upon the people? Are provincialisms as marked in the United States as in Europe?

boats, and more than 500,000 miles of stage roads connect town with town, and city with city, in a perfect net-work of communication over the whole country. **Thus the people of all parts of the Union are enabled to see and know each other, whereby they learn to think and act alike.** Such provincial peculiarities in dialect and manners as mark the natives of the different counties in England and the provinces of other kingdoms in Europe, are hardly known in the United States; while such as do exist are rapidly disappearing through the increasing intercommunication brought about by railroads.

139. *What other means of communication are particularly useful in the formation of public opinion in the United States?*

The Mails, the Telegraph and the Express.

The mail service is maintained by the General Government, and thus uniform rates of postage and systematic regulations are established alike in all the States, which would not be the case were the postoffice controlled by the State Governments. **The mail is at the service of every individual for the carriage of letters, papers, books and small parcels.** It is through the mails that the enormous newspaper circulation of the country is carried on. There would be no use in allowing a free press if no means were provided for the free transmission of what is printed to the persons who are to read it. **Hence, the postoffice is a sacred institution. There exists no power in the United States, not even in the courts, by which a letter or paper can be lawfully taken from the postoffice, except by him to whom it is addressed.**

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139. What can you tell about the United States mails? Are they free to all? Are they liable to interference by the Government?

140. *Are not the public mails as free in Europe as in the United States?*

They are not. For though the great mass of ordinary correspondence may pass without obstruction, yet if a person be suspected of crime, particularly of treason, his letters are likely to be opened in the postoffice by the police in hopes to find evidence against him, or detect his accomplices. In such countries no newspapers or books are allowed to enter by mail which contain republican ideas, or tend to make the people discontented with their rulers. There are many parts of Europe where this book would not be allowed to circulate.

141. *How are the telegraph and express used and protected as means for the formation of public opinion?*

The Telegraph, an American invention but thirty years old, now connects each town of any importance with every other, bringing the bulk of the people almost within speaking distance of each other. By this means the newspapers each morning are enabled to record the events of the preceding day wherever they may have occurred. As a means of communication it is always in advance of the mails, and is constantly in use in conveying from point to point the expression of public opinion as well as the private business of different sections. It is therefore the most active and powerful means of modifying the public opinion of one place by that of another. For this and for other reasons it is closely guarded by law. The telegraph company must report at once to the

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140. Are European mails as free as the American? In what respect do they differ? Are all books and newspapers admitted in the European mails? What exceptions are there?

141. How are the telegraph and express used and protected in the United States? What can you say of the telegraph? What protection does the law give to telegraphic messages? To telegraph property? Why? Can Government officers tamper with the telegraph? Why would the control of the telegraph by the Government be dangerous to liberty?

person addressed, and to him only, the exact message received. If an operator divulges the message, or delivers it to a third party, or fails to report it promptly to the proper party, or if any person willfully injures any telegraph wire, materials, or property, all such delinquencies are punishable by fine or imprisonment. Moreover the delinquent becomes liable to pay damages to the injured party.* **No Government officer has any more right to tamper with correspondence by telegraph than with that by the mails, and should Government undertake to control the telegraph as it does the mails, it would acquire an accession of power dangerous to individuals, whose secrets it would learn; to the press, by enabling the Government to suppress news; and to political parties in opposition to the Administration.**

142. The Express business, like telegraphing, is carried on, not by Government, but by corporations or individuals. But in all its transactions it is governed by laws which protect the rights of individuals. **Like the mails and the telegraph, all have the right to use the express, provided they pay the equal charges.** The Express Company is responsible for the value of every package entrusted to it, until it has been delivered in the same condition as when received, to the person only to whom it was addressed. Failing in this, the company must pay the value of the package, or the damage it has sustained while in its hands.

143. *What is the effect of all these means of communication in forming and consolidating public opinion?*

*See the Statutes of any State on this subject.

142. Are telegraphs and express carried on by Government? What law protects the citizen who uses the express? To what extent does it protect him?

143. What is the effect of all these means of communication on public opinion? How does the United States compare with other States and countries having no railroads, steamboats or telegraphs? What would so large a country be without them?

By these means the United States, though embracing an extent of territory larger than that of any other nation except Russia, and populated by forty millions of people, is now more quickly traversed, and its inhabitants sooner informed and consulted about public affairs, than was the case within the little State of Massachusetts, at the beginning of the 19th century, when its population did not exceed a few hundred thousand. **The whole country is more closely united, more compact, and more sympathetic, than any nation of a tenth of its population, or the hundredth part of its extent, could have been before railroads, steamboats and the telegraph were invented.** Consequently, public opinion is more quickly formed, more freely expressed, and a thousand times more emphatic, than it ever could be elsewhere. A month or two is now sufficient to form the public mind of the nation on almost any subject. Without free and rapid communication in so large a country, sectional feeling would doubtless long since have destroyed the Union; and if not, time and distance would have made a united national public sentiment almost an impossibility.

NOTES.—"The freedom of communion is one of the most precious and necessary rights of the individual, and one of the indispensable elements of all-advancing humanity. So much so, indeed, that it is one of those elements of liberty which could never have been singled out had not experience shown that it forms invariably one of the first objects of attack when arbitrary power wishes to establish itself, and one of the first objects of conquest when an unfree people declares itself free. *Leiber's S. G. & C. L.* 89.

In "police" governments like that of France, it is customary for the Government to open letters addressed to or written by suspected persons. The same practice has at times prevailed in England." Ib. 93.

HOW LETTERS ARE OPENED AND READ IN FRANCE.—A pamphlet by M. Emile Lambry, an employé in the French postoffice, recently

published in Paris, gives some curious details about the "Cabinet Noir," as the department for opening letters from suspected persons is called in France. Letters were opened under Charles X, and Louis Phillippe, but under the Second Empire the "Cabinet Noir" acquired an importance previously unknown. The dishonorable office of opener of letters was occupied by a man named Simonel, who, from M. Lambry's account, seems to have been singularly well-fitted for the post he held. At first Simonel only stopped letters in obedience to a list sent to him from the Prefecture of Police. These letters were put in a bag and forwarded to the Prefecture, where they were opened and read. Simonel's way of proceeding was as follows: When a suspected letter fell into his hands, he inserted the point of a very thin knife, specially made for the purpose, under the seal, then, by dint of steady pressure, and thanks to the skill acquired by long practice, he removed the seal whole, and without tearing the envelope. The letter read, and if necessary, copied, Simonel slightly warmed the bottom of the seal, so as to melt the wax sufficiently to attach it again to the paper. By this means he was enabled to defy detection. When letters were fastened with gum or a wafer, it was still easier to open them; a few drops of hot water were all that was necessary. Foreign mail-bags passing through Paris were not respected any more than letters to be delivered in France.

LESSON XI.

OF FREE ASSOCIATION.

144. *What is understood by the principle of Free Association?*

The privilege every one enjoys under a free government of choosing his own associates, whether with or without any special object in so doing, or with an organization or otherwise, always provided that the object be such as will not interfere with the rights of other people or associations, and that the society does not disturb the public peace, nor violate any of the laws of the land.

144. What do you understand by free association?

145. *To what extent is the privilege of free association availed of in the United States?*

To a degree that astonishes those foreigners in whose countries this principle is disallowed. Almost every person belongs to one or more voluntary associations. Societies are numerous in proportion to the population. Many of them exist even in small villages of only a few hundred inhabitants, and in large cities they can hardly be counted. In fact, many forms of association extend over the whole Union, having branches in every town.

146. *How are these various associations classified?*

They may be arranged with reference to their objects, thus:

Religion, which includes all churches, Sunday schools, Bible societies, religious orders, ladies sewing circles, Christian associations, missionary societies, and the like.

Moral Reform, including all societies designed to promote morality. Such are temperance, and prisoners' aid associations.

Politics. To this division belong political parties, such as the present Republican and Democratic, and the old Whig and Know-Nothing parties. The Abolition Society, the Knights of the Golden Circle, and the Union League, were all political associations.

Benevolence. This object is sought by an immense variety of societies. Prominent among them are the Masons, Odd Fellows, Druids, Red Men and other secret associations, national benevolent societies, hospitals and charitable institutions.

Trades Unions, whereby mechanics and tradesmen

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145. How far is voluntary association availed of in the United States?

146. Classify the various kinds of associations? What kind of Societies are organized to promote religion? Moral Reform? Politics? Benevolence? Trades? Other objects? Business?

band themselves together for the purpose of promoting the interests of their own trade.

There are also many societies organized to promote literature, science, the learned professions, art, education, emigration, colonization, agriculture, manufactures, commerce, and for temporary purposes without number.

Lastly, under the term Business Corporations are included all those joint stock associations with capital, which are organized under the laws for the purpose of carrying on some branch of business requiring more money than one or two persons could be expected to furnish. Such are banks, railroad, insurance, toll road, mining, manufacturing, telegraph, express, and transportation companies, and many others.

147. *How do these societies operate in promoting the love of liberty, the knowledge of law, progress, and public opinion among the people?*

Their effect in educating the people to work together in the furtherance of common objects is so great, that if the principle of free association were abolished, the entire character of the nation would be changed. Their result upon national character is shown in several particulars, *e. g.*

A. In familiarizing the members with parliamentary law, or the law governing all public

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147. How do these societies affect the love of liberty, knowledge of law, progress, and public opinion among the people? What is parliamentary law? What is its object? Do societies cultivate the habit of public speaking? How do they prepare the citizen for public life? Do they teach respect for the opinions of others? Do they inculcate a spirit of compromise? How do they affect the formation of public opinion? The study of the law? What are corporations? By what power are they created? Why are they called artificial persons? Why are they formed? What kinds of business do they engage in? How do associations form public opinion?

meetings, whereby only can the **united** opinion of the members be fairly ascertained.

B. **In cultivating the habit of public speaking.**

C. **In preparing private citizens for public life,** for the officers of associations differ from public officials only in the extent of their sphere of duty, and in the **weight, not character,** of their responsibilities. Each society has its constitution, its laws, its legislative and executive, and sometimes its judicial functions, like a State government in miniature; and whoever learns to administer a society becomes thereby fitted to serve the State.

D. **In training the members in the respect for the rights of others, which constitutes the spirit of political liberty.**

E. **In developing the spirit of mutual concession or compromise, which is indispensable in maintaining union of any kind, or producing united effort.**

F. **In forming opinion under the constant check of opposition,** whence results **public opinion** or "the opinions of individuals modified by one another."*

G. **In the study of those branches of the law which affect the objects of the society,** and its relations with those who deal with it.

H. **Corporations exist solely by operation of law,** which provides that **for certain purposes only,** a number of persons may act together, in the same manner as one person may do by nature. Thus, in law an individual is called a **natural** person, and a corporation, an **artificial** person. It is by these "artificial persons" that a very large proportion of all the heavy business of the country is carried on. To the principle of free asso-

*See Sec. 118.

ciation therefore is due a great part of the material progress which has distinguished the United States above all the countries in the world.

I. **Associations of all kinds have more or less influence in forming public opinion.** In fact, many of them are created for this purpose only. **And they attain their objects by the use of free thought, free speech, free press, and free assembly,** in addressing the facts and arguments favoring their peculiar views to all listeners and readers, so as to persuade as many as possible to think as they do.

148. *Are there not many associations permitted in the United States whose objects are foreign to the American system, and if attained, the societies would have to be suppressed by the power of the Government?*

There are. But were the Government to interfere with them before they had committed any wrong act, it would be violating their rights of free association.

149. *Is the object of the Fenian society compatible with American ideas?*

It is not, in so far as it is an organization of persons who seek to make Ireland independent of England by military operations organized in the United States. Now, so long as the United States are at peace with Great Britain, this society cannot be allowed to commence a war from our territories upon England, for this would be a violation of our treaties with that nation; and as we have already seen, treaties with foreign nations are a part of the supreme law of the land:* so

*See Sec. 92.

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148. Why does our Government permit associations whose objects are foreign to the American system?

149. Is the object of the Fenian Society compatible with American ideas? Why not? Then why is it protected?

when the Fenians twice invaded Canada, our Government immediately used the army to disperse them and protect the Canadians. And so it will continue to do. But so long as the Fenians confine themselves to speaking, writing and sending money or supplies to their friends in Ireland, they violate no law, and the Government has no right nor power to disturb them.

150. *What other foreign associations are permitted whose objects are inconsistent with the American system?*

The **Orange Society**, which seeks to keep alive on American soil an old foreign religious feud, which, with all others of that nature, we desire to forget. Nevertheless the Government has several times protected the Orangemen in their public celebrations; for so long as they conduct themselves peaceably towards those who differ with them, they are entitled to their freedom of association.

There are also foreign societies of every nation, whose object is to keep alive the customs, associations, and love of the old countries, in the breasts of their members. Now, though the object of our institutions is to obliterate all foreign distinctions and traditions, so as gradually to fuse all these strangers into one American people, all speaking our language, and recognizing only the United States as their country, yet we can accomplish this only by **moral**, not by **legal** means. To suppress these societies by law, so long as they do no harm to other people, would be to violate their right of free association.

151. *Why do we find the public peace and security pro-*

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150. Is the object of the Orange Society consistent with our system? Why not? Are there other foreign societies? What are their objects and tendencies? Why, and under what conditions are they protected?

151. Why do we find the principle of free association an ally of Government, while monarchy finds it an enemy to public peace? What results from confirming the tendency towards association among men? How does America find it best to deal with it?

moted by this freedom of association, while the safety of Monarchical Governments would be endangered by it?

Because our whole system of Government being but a huge voluntary association, the operation of the voluntary principle in other forms is entirely consistent with it, and indeed necessary to its support. **But under a Government maintained by force, the free association of the people cannot be allowed, for its results would soon destroy the Government.** Therefore the natural tendency of human nature toward association finds its development on the Continent of Europe, only in **secret** political societies. Such are the "**Carbonari**" of Italy, and the "**Internationals**" in other countries of Europe. The frequent conspiracies which have defaced European history indicate that Monarchical Government on the continent has always been undermined by secret associations. But Americans find the voluntary principle like water. **It is better to allow it to flow at will within its natural banks, than by obstructing its course to cause inundations,** which, as in the French Revolution of 1789, are sure to sweep away in common destruction every vestige of government and law.

LESSON XII.

OF THE RIGHTS OF PETITION AND INSTRUCTION.

152. We have heretofore seen (see Lesson 7) that the power of making the laws is confided by the American people to legislators, who are elected to perform that duty only. We have also seen that all laws, both in their inception and their continued efficacy, rest on pub-

lic opinion; and that we protect freedom of thought, speech, the press, assembly and association, for the purpose of creating public opinion; that is, so as to furnish every facility to individuals to submit to each other's judgment every thought and every measure which any one thinks would benefit the public if enacted into law. We have also seen that the legislators, like all other elected officers, are directly responsible to the people, whose servants they are. We must now learn in what manner public opinion is brought to bear upon these public servants.

153. The first amendment to the Federal Constitution reads: "Congress shall make no law abridging the right of the people peaceably to assemble, and **to petition the Government for a redress of grievances.**"

154. The Constitution of Massachusetts says:

"The people have a right in an orderly and peaceable manner to assemble to consult upon the common good; **give instructions** to their Representatives, and **to request of the legislative body, by the way of addresses, petitions or remonstrances, redress of the wrongs done them and the grievances they suffer.**"*

155. *In what respect does the attitude of the people of the United States toward their Government contrast with that of the subjects of a monarch, relative to petition and instruction?*

In America the people are the sovereign power,

*Massachusetts Declaration of Rights, Sec. 19.

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153. Repeat the quotation from the Federal Constitution on the subject of the right of petition?

154. What says the Constitution of Massachusetts on the right of instruction?

155. How does the attitude of Americans toward their Government contrast with that of subjects under monarchy? Does the right of instruction to Representatives result from the American system?

and we have no ruling classes distinct from the governed, who have the right to act out their own will, in spite of the will of the people. **In England, Parliament is the sovereign power; in Russia, the Czar; in Turkey, the Sultan. Under the French Empire, it was the Emperor.** But with us the **people** rule, **and the last appeal lies to them.** In other countries the people humbly pray the Government; here they petition, or if they constitute a majority of the constituency, they *instruct* their representatives. On all questions on which the public mind has been thoroughly enlightened by discussion, the doctrine of instruction to Representatives is a necessary result of our institutions.

156. When a Representative in Congress or a State Legislature votes and works **against** the manifest will of the majority who elected him, he is treated as a treacherous man, who is not again to be trusted; and so it should be, for he holds his power directly from the people and not by "divine right," **and his duty is to follow in all things lawful, the expressed wishes of his employers.**

157. *Have the people the same right of petition and instruction to the Executive and Judiciary, that they have to the legislative branch of the Federal and State Governments?*

They have a **limited** right of **petition** to the Executive, but **none** to the Judiciary; and they have not reserved **any** right of **instruction** to either. The Executive indeed holds a portion of the legislative power, for he can veto bills after they have passed both houses of the Legislature, and the people have the clear

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156. When is a Representative considered treacherous to his constituents?

157. Have the people the rights of petition and instruction to the Executive? To what extent? Why is it limited?

right to petition for the veto of any obnoxious bill. They may also petition him as Executive for the pardon of a criminal, for the appointment of an individual to office, for protection against an enemy or relief from a foreign wrong, or for the execution of some neglected statute. **But as nearly all the duties of the Executive are exactly fixed by law, while in matters left to his discretion he is advised or checked by his Cabinet and by the Senate, the interference of the people in matters of detail would be both unwise and injurious.** It is sufficient that he answer to the people in the general tone of his administration.

158. *All the duties of the Judiciary being strictly defined by law, there is no point wherein the instructions or petitions of the people would serve any good purpose.*

The Judges are all responsible for their errors to the higher courts, except those of the Supreme Court, and these are numerous enough to check each other. **All** are liable to removal on impeachment (as we shall hereafter see) in case of flagrant misconduct; and in the case of elected judges, the people need not reëlect such as have proved themselves unfitted for such a trust.

159. *Are Senators and Representatives equally bound by the instructions of the people?*

No. The Representatives, or members of the lower house, are considered to be the "popular" house, or more completely representing the people than the Senate, who are expected to act more **as a check upon hasty legislation**, than in a more active capacity. The Senate

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158. Can they petition or instruct the Judiciary? Why not? To whom are the Judges responsible?

159. Are Senators and Representatives equally bound by popular instructions? Why not? What is the difference in this respect between the two houses? Are United States Senators directly responsible to the people? What was the old form of instruction?

is always the smaller body, composed of older men, and elected for a longer time than the Representatives. And the United States Senators, being elected by the State Legislatures, are deemed to be only indirectly responsible to the people. Hence the Senators are left more to their own discretion. The old form of instruction by the people read: "We **request** our Senators, and **instruct** our Representatives."

LESSON XIII

OF FREEDOM OF CONSCIENCE.

160. Art. VI, Sec. 3, of the Federal Constitution provides that "**No religious test shall ever be required as a qualification to any office or public trust under the United States.**" And Article I of the Amendments reads: "**Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.**"

161. The language of all the State Constitutions is very full and explicit on the subject of freedom of conscience. Maine says (Art. I, Sec. 3): "All men have a natural and inalienable right to worship Almighty God according to the dictates of their own consciences, **and no one shall be hurt, molested or restrained in his person, liberty or estate, for worshiping God in the manner and season most agreeable to the dictates of his own conscience, nor for his religious profes-**

LESSON 13.—160. Repeat the quotation from the Federal Constitution on religious tests for office? On making laws concerning the establishment of religion?

161. Give the substance of the quotation from the Maine Constitution? Have all the States adopted the same principles?

sions or sentiments, provided he does not disturb the public peace, nor obstruct others in their religious worship; and all persons demeaning themselves peaceably, as good members of the State, shall be equally under the protection of the laws; and no subordination or preference of any sect or denomination to another shall ever be established by law; nor shall any religious test be required as a qualification for any office or trust under this State; and all religious societies in this State, whether corporate or unincorporate, shall at all times have the exclusive right of electing their public teachers, and contracting with them for their support and maintenance."

162. Virginia says: "That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and therefore all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practice Christian forbearance, love and charity toward each other."*

163. *In what respect does consistent reason require freedom of conscience in religious matters?*

*Virginia Bill of Rights, Sec. 16.

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162. What does Virginia say on this subject?

163. Why does consistent reason require freedom of conscience in religious matters? Has the State any right to interfere with anything that promotes the happiness of the people? Or with such things as result only in the injury of the person committing them? Does religion promote happiness? If the want of it injures any one, who is it? Who punishes the vicious person? What is the difference between *vice* and *crime*? (Ans. *Vice* is *sin*—an offense against God or one's self. *Crime* is an offense against the *law of the State*. All crimes are vicious or sinful, but all sins and vices are not crimes. The State cannot punish mere lying or hypocrisy, but it does punish theft. All three are *sins*, but only the theft is a *crime*, for it injures another.) Is the right of Free Opinion specially valued by religious people? Why? Does the State carefully protect that right?

In Sec. 31, we learned that "society" (or the State) 'has no right to interfere with such acts as promote happiness, nor with such as injure only the person who commits them. But that it **has** a right to prevent such acts as tend to injure other people.' And in Sec. 113 we found that no man can be free who is not allowed to think as he pleases.

Now religion is the highest means known for promoting virtue and happiness among men. Consequently, the State has no right to interfere with it. As it is purely an individual matter between each conscience and its Maker, and as the punishment of irreligion and personal vice is the **natural** consequence of vicious conduct under the laws of the Creator, **so long as one's vices injure only himself, the State has no right to meddle with him.** And as the right of free opinion is preëminently precious to religious people, the State particularly protects that right, and will never allow any dictation on this subject by any human being.

164. *If religion be the highest means known for promoting virtue and happiness among men, why is it necessary to limit the protection of the laws to those religionists only who do not disturb the public peace, nor obstruct others in their religious worship? Do religions ever disturb the public peace?*

This restriction is necessary, because in past ages the imperfect civilization of people professing religion has led them to misunderstand its true principles, causing them to manifest their faith, not in love and good works to each other, but in a rigid compliance with outward forms and ceremonies. Hence grew up the idea, that

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164. Do religions ever disturb the public peace? What was the old idea of spreading religion among the people? How did bad men injure others by these means?

to spread religion it was only necessary to compel men to adopt these forms and ceremonies. Bad men elevated to high position in the church, and fanatical sects of all beliefs, have heretofore inflicted frightful miseries on their race through wars and persecutions originating in this way. It is to prevent any attempt of this kind that our Constitutions are so well guarded on this point.

165. *When we remember that for fifteen centuries all the Governments of Europe have been closely united each with some form of religion, which was exclusively supported and generally the only one tolerated by the State, does it not seem as if ours were an unchristian, irreligious, or heathen form of government?*

It may seem so to one educated to believe in the old European plan. **But so far is this from the fact, that, on the contrary, the whole American system** (as we have seen in Lesson I) **is founded on pure Christian principles; and our universal equality and freedom in religious matters have done more to spread the true spirit of religion among the people, than all the unions of Church with State, bullets, bayonets, and inquisitions that ever existed.**

166. *In what then does the error of those who denounce ours as an irreligious Government consist?*

The union of Church and State does not make a Government religious. **Government is a corporation. Corporations have no souls to be saved; they are not expected to enjoy immortality beyond the grave. Hence they can be neither religious nor**

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165. Is not ours an unchristian or irreligious form of government? Why not? What has been the result of our freedom and equality in religious matters?

166. In what consists the error of those who denounce our Government as irreligious? Can a corporation be religious? Can religion be an attribute of Government? Are faith and morals individual matters? Can there be an Episcopal railroad company? Why not? What purposes is Government designed for?

irreligious. Religion is not, and cannot be, an attribute of Government. **Faith and morals are purely individual matters.** All the stockholders in a railroad company may be Episcopalians, but nobody on that account would think of the corporation as an Episcopal railroad company. Why? Because the stockholders are united in the company for a purely secular purpose, with which their religion, as individuals, has nothing to do. **So the Government is organized for purposes relating wholly to the present life.** Though the individuals composing it are doubtless responsible to their Maker, for their public as well as their private offenses, yet nobody has ever dreamed of the resurrection and judgment hereafter of any Government, considered in its corporate capacity.

167. But among the duties of Government stands the obligation of promoting among the people the principles of personal morality, without which, especially under a voluntary form like ours, no Government can long exist. America, in her mode of performing this duty, has proved more successful than any other nation, for the reasons following:

A. **She has incorporated the principles of religion** (without regard to the peculiar doctrines of any particular church or sect) **in all her Constitutions and laws.**

B. **She relies upon a religious oath,** as the ultimate security for the integrity of all her public officers, for eliciting the truth from witnesses, righteous judgment

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167. What is the duty of Government in promoting morality? Can a Government resting, like ours, on the voluntary agreement of the people, exist without morality? Has America been peculiarly successful in this duty? In what particulars? State them fully?

from courts and juries, and faithful service from lawyers. **Without religious faith on the part of the person taking this oath, it imposes no obligation on his conscience.**

C. **She protects all Churches, sects, and faiths with rigid impartiality from the encroachments of each other;** whereby persecution is rendered impossible, and the members of different sects, being compelled to live in harmony together, gradually lose their harsh prejudices, and learn, instead of hating, to "love one another."

D. **She removes from ambitious and hypocritical minds the temptation to seek office in a State Church;** whereby, as history shows, wicked men have often degraded and demoralized it, causing horrible miseries to the victims of their tyrannies, and utterly perverting the beneficent objects for which religion was revealed to man.

E. **She leaves the entire support of Churches to the voluntary efforts of their members,** whence the prosperity of each society depends wholly upon individual zeal; an appetite which "grows by what it feeds on." Hence, nowhere are there so many churches and Sunday schools as in the United States. And no nation that ever existed has been so completely governed in all its public acts by the influence of personal religion among the people. It was only in the United States that a Sanitary or Christian Commission would have been thought of. It was only the United States that failed to prosecute and execute rebels, when after a successful, though desperate civil war of four years, she had millions of them at her feet. It is only the United States that has never oppressed a weaker nation. And it is preëminently in America that popular subscriptions

for the relief of suffering humanity have become a national custom, enlisting the sympathies of the people as often as famine, war, pestilence, earthquakes or fires call for the exercise of active benevolence.

168. *What are the evils shown by history to result from the union of Church and State, that is, the exclusive support of any one Church or sect by the Government?*

A. **An injury to the liberty of all whose reason or conscience could not be convinced that the National Church was the true one,** for to these was denied the right of free opinion.

B. **An outrage on natural rights in compelling dissenters to pay taxes to support a Church, in whose doctrines they did not believe,** and which was therefore of no benefit to them.

C. **Jealousy on the part of the established Church towards all others, causing religious persecutions and civil wars.**

D. The State Church, being supported by compulsory taxation, is always rich, and its rulers have great power. **Hence, bad men, not caring for souls, but only anxious for wealth and power for themselves, have often managed to control it;** or appointments to livings being made through influence, regardless of talent or zeal, the ministers degenerate into mere formalists, and cease to cultivate piety among the people. **Under a Church so governed, hypocrisy takes the place of virtue, and we have already seen that a nation of hypocrites can never be free.***

E. **The mind that is fettered in religion is never free to act out its natural bent in other matters.**

*See Sec. 114.

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168. What evils result from the union of Church and State? Give them in full? Can the mind fettered in religion act out its natural bent in other matters?

Hence science, invention and progress were always hindered, and often suppressed, in those countries where religious freedom did not exist.

169. *We have said that our Government had incorporated religious principles in its laws and Constitutions. Is there anything in this which prevents freedom of conscience to Hebrews, Mohammedans, Confucians, Mormons, and people of no religion, any more than to the Christian sects?*

There is not. Christ has commanded us to **"judge not, that we be not judged."*** It is no man's business, therefore, to undertake to pronounce his neighbor's religion to be worse than his own. But were we nevertheless privileged to condemn another's faith: **"God maketh the sun to rise on the evil and on the good, and sendeth his rain on the just and on the unjust."†** Now if God, the Father of all, makes no distinction in his distribution of good gifts to men with reference to their attitude toward him in religious matters, by what right dare man interfere in the matter?

170. *What then is the American idea on the subject of religious toleration?*

The American system makes a clear distinction between **religion**, which, as a **personal** quality, it encourages and cherishes, and **the Church**, which, being a corporation, though it be designed for the promotion of religion, the law regards merely as it does all other forms of voluntary association. (See Sec. 146.) Like other cor-

*Matt. vii: 1. †Matt. v: 45.

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169. Does the incorporation of religious principles in the Constitution and laws imply that only Christians have the right to protection? Why not? Have men the right to judge one another's religion? If they had that right, should they exercise it more severely than God does?

170. What is the general idea of religious toleration? Why must Churches be subordinate to the State? What do we say to all religions?

porations and voluntary associations, **the Church must be subordinate to the State.** All members of Churches are also citizens, having **personally** equal rights before the law of the land. So, while all men are free to become members of any Church or other corporation at their pleasure, the Churches or corporations cannot be allowed to raise them above their responsibility to the civil law. If this were allowed, social and civil order would become impossible. Were **one** church permitted this privilege **all others** would find their liberty abridged; and if it were granted to **all,** society would at once be thrown into confusion. As to the various doctrines taught by the several Churches, **we believe that if truth and error are brought face to face, truth will always prevail in the contest.** We say to all religions: "Come and argue peacefully your differences upon our soil. None of you shall force the other. None shall have any advantage over the rest, except the intrinsic merits of your own system, **and of these merits the individual reason shall be the sole judge.** So far as you teach morality and virtue the laws shall protect you, for they depend upon the public conscience for their own force and effect. But if, under the guise of religious doctrine, you disturb the peace or introduce immoral practices, (such as polygamy in Utah), the law will prevent your injuring the public, and will punish you for doing so as it would any others who may be guilty of similar conduct."

NOTES.--(a.) "It may justly be observed, that religious principles, which (when genuine and pure) have an evident tendency to make their professors better citizens, as well as better men, have (when perverted and erroneous) been usually subversive of civil government, and been made both the cloak and the instrument of every pernicious design that can be harbored in the heart of man." *Blackstone's Com.*, Book IV, Ch. viii, 103.

(b.) "Then came his disciples and said unto him, Knowest thou that the Pharisees were offended when they heard that saying?

"But he answered and said: *Every plant which my Heavenly Father hath not planted shall be rooted up. Let them alone; they be blind leaders of the blind; and if the blind lead the blind, both shall fall into the ditch.*" Matt. xv: 12–14.

(c.) "Since God hath assumed to himself the power and dominion of the conscience, who alone can rightly instruct and govern it, therefore it is not lawful for any whosoever, by virtue of any authority or principality they bear in the government of this world, to force the consciences of others; and therefore all killing, banishment, imprisonment, and other such things, which are inflicted upon men for the alone exercise of their conscience, or difference in worship or opinion, proceedeth from the spirit of Cain, the murderer, and is contrary to the truth: providing always that no man, under the pretence of conscience, prejudice his neighbor in his life or estate, or do anything destructive to or inconsistent with human society; in which case the law is for the transgressor, and justice is to be administered upon all without respect of persons." *Barclay's Apology*, Prop. XIV.

It was only in 1858 that the English Parliament struck out the words "upon the faith of a Christian" from the oath to be taken by a member of that body, so that a Jew could take his seat as a representative.

"We find in history that no people who have not fairly learned to bear with one another can enjoy liberty. The absence of toleration is the stigma of absolutism; the establishment of 'the opposition' is the glory of freedom. Liberty allows variety; the tyrant, whether one or a multitude, calls 'heretic' at every one who thinks differently." *Leiber's C. L. & S. G.*, 56.

For Scripture authority inculcating free toleration and forbidding persecution, the student may consult: Zech. iv: 6; Matt. xxvi: 52; Ib. vii: 12; Ib. v: 7–9; Ib. xiii: 24–30; Ib. vi: 44; Ib. xxiii: 33–38; John xviii: 36; Ib. xiii: 34–35; I John iv: 7–8, 20–21; Rom. xiv: 4; I Cor. xiii: 4, 6, 13.

"Religions have considered liberty as an obstacle, not as a means. They have forgotten the nature of the force to which they address themselves, and have treated the human soul as they would a material force. It is in following this error that they have been led to range themselves on the side of power and despotism against human liberty, regarding it only as an adversary, and taking more pains to

subdue than to secure it. * * * When the question has arisen of establishing a system of permanent institutions which might truly place liberty beyond the invasions of power, the church has generally ranged upon the side of despotism." *Guizot's Hist. of Civ. in Europe*, Vol. I, p. 116.

For a long list of quotations from the ancient church fathers, Athanasius, Hilary, Jerome, Ambrose, Cyprian and Tertullian, bitterly condemning the first persecution of heretics by the church, see "Barclay's Apology," written in 1675, article—"Of the power of the civil magistrate." This whole paper is a strong argument in favor of the American doctrine of freedom of conscience. It is all the more interesting, because written in the days when inter-sect persecution was still universal, and because its learned and earnest author was one of those Quakers who were then particularly obnoxious to the punishments of heresy.

LESSON XIV.

OF FREE EDUCATION BY THE STATE, NO. I.

171. You have now obtained a sufficient insight into the principles of American institutions, to see that they are **very complex.** They result from the highest degree of civilization yet attained by man—from the greatest knowledge of history and of human nature ever applied to a system of Government. **Yet they all rest upon public opinion,** for they are simply what **the people** have made them, and whenever the people cease to respect them, they can no longer exist.

Suppose that none of the people were able to read: could there be any opinion among them on such subjects as we have been discussing?

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171. Are American institutions complex? Why? What do they rest upon? Can they exist after the people have ceased to respect them? Suppose none of the people could read, could they have any opinion on such subjects? Why not? What knowledge is necessary to fit a man for voting?

Clearly not. To understand American ideas, one must know a great deal that is to be found only in books, or at least in the newspapers. Without being able to attain such knowledge by reading, no man is fit to be a voter.

172. *Suppose that from one whole generation of children all the knowledge that the world has already attained were entirely withheld; what would be the result?*

From that time forward all science, art and civilization would disappear from among men. "In the common course of nature all the learned and wise and virtuous are swept away by death, almost as soon as they become learned and wise and virtuous, and they are succeeded by a generation who come into the world wholly devoid of learning and wisdom and virtue. The parents may have sought out the sublimest truths, but these truths are nothing to the children until their minds also shall have been raised to the power of grasping and understanding them. **The truths indeed are immortal,** but **the beings who may embrace them are mortal,** and pass away, to be followed by new minds, ignorant, weak, erring, and tossed hither and thither on the waves of passion. **Hence, each generation must learn all truth anew each for itself,** and must rise to the practice of the virtues requisite to sustain the position of their ancestors; **and the first generation which fails to do this, loses all,** and comes to ruin, not only for itself, but for its successors."*

*Horace Mann's Lecture on the Necessity of Education in a Republican Government.

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172. What would result if all knowledge were withheld from one generation of children? Does knowledge survive the person who has attained it? Can parents bequeath their knowledge to their children? How is knowledge to be perpetuated? What is the condition of each soul born into the world as to knowledge?

173. *How then can public opinion in favor of our system be perpetuated in future generations?*

Only by the universal, careful and systematic training of the young in all the knowledge that has been gained by their ancestors.

174. *Suppose they are trained in a different school from that of their fathers: will they be likely to approve or condemn their fathers' opinions?*

The greater number of those so trained will believe their teachers and disbelieve their fathers, though now and then, if the teaching be false, there will appear some minds strong enough to seek and appreciate the truth, in spite of a false education. These, however, would generally be opposed and kept down by the multitude.

175. From these considerations you must see at once that even **were there nothing peculiar** in the American system, **all civilization must cease, unless taught to each successive generation.** And as our institutions **are** peculiar in the fact that they depend wholly on public opinion, while this depends upon individual ability to form and express opinion, it follows that **every individual must be more or less educated, or our system will cease to exist.** Conversely, **in proportion to the excellence and universality of this education will be the progress and power of our institutions, and the peace and happiness of the people.**

176. *Suppose that only a few among the people were edu-*

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173. How can public opinion be perpetuated in favor of our institutions?

174. If children be educated differently from their fathers, will they be likely to approve or condemn their fathers' opinions?

175. Upon what then does the continuance of our system depend? In what case will it cease? In proportion to what will it progress?

176. If but few were educated, what would be their relation to the mass of the people? Is this a republican relation? How would inequality of knowledge af-

cated, what relation would these few sustain to the ignorant masses?

The relation of teachers to their pupils, or of leaders to their followers.

Is this a republican relation?

No. Equality before the law is best attained when there is no great inequality in other respects. This is especially so as regards knowledge. **Ignorance loves and worships a hero; heroes are very apt to be ambitious,** and to sacrifice constitutions, laws, and the rights of others on the altar of their ambition. **Hence heroes and hero worshipers are destructive of republican equality,** which does not tolerate such old-world idols as Alexander, Julius Cæsar or Napoleon. And as regards the relation of pupil to teacher, no one needs to be reminded that the crude, half-formed ideas of the learner do not affect the opinion of his instructor, however they may influence the minds of their fellow pupils; while a word from the teacher will generally be accepted as authority by them all. **So that any community of opinion between the learned few and the ignorant many, can exist only so far as the opinion be dictated by the few and accepted by the many. And this is aristocracy, and not republicanism.** If power be conceded to the populace under these conditions, demagogues will always rule them to their destruction.

177. *What is the relation between education and crime?*

Prison statistics, wherever they have been regularly

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fect republicanism? Are heroes and hero worship consistent with our system? Why not? Under what condition only can there be a community of opinion between the learned few and ignorant many? To what does this tend?

177. What is the relation between education and crime? Are there criminals everywhere? What expense do criminals cause to the State? What damage do they cause to the people?

kept, show that a large majority of all the inmates of prisons come from the lowest and **most ignorant** classes of society. Now, in all communities there are more or less criminals. Human nature is everywhere the same, and no society has yet reached such perfection as to be able to dispense with criminal law. **But when we find that the greater the amount of popular education the fewer criminals there will be,** the duty of the Government in the matter becomes self-evident.

You know that arresting, trying, keeping and punishing criminals are among the most important as well as burdensome of the duties of Government; especially when the principal object of that Government is "to protect the lives, liberty and property of the people." The State must pay large numbers of policemen, constables and sheriffs, to arrest the law-breakers; must provide judges, lawyers and juries to try them, and jails and jailors to confine them; all of which cost more or less of the people's money in taxes. Besides which, there is always a larger number of criminals who evade punishment, than of those who are caught and punished, whereby large sums are annually lost through theft, and robbery, and the security of the people is continually endangered.

178. Now it has been found by many years experience **that it costs less money to prevent crime by so educating the children as to make them good citizens, than to punish them after they have become criminals, for want of education.** As without the help of the Government, only a few would be educated, while the greatest good to the greatest number requires

178. Does it cost less to educate than to punish? Why does the State undertake the charge of education? What reason is given: A. On the score of popular intelligence? B. Equality of knowledge? C. Economy? D. Humanity? E. Education of public officers and good citizens? F. The danger of class education?

that all should enjoy that privilege, **it thus becomes the duty of the State to provide education for all children at the public expense.** Understand, therefore, that the reasons why the State undertakes this duty are:

A. **The necessity of general intelligence among the people,** so that a healthy public opinion may always exist in support of the Constitutions and laws of the land.

B. **The necessity of an approximate equality of knowledge among all the people,** so that they shall not be at the mercy of demagogues or tyrants, or lend themselves to the support of an aristocracy.

C. **Economy in the use of public funds,** which would be wasted in heavy expenditures in capturing and punishing as criminals those who at less expense could have been educated to be good citizens.

D. **Humanity, in educating instead of punishing** the children of those who are too poor to pay for education.

E. **The necessity of qualifying future generations to become public officers, intelligent jurors, honest witnesses, capable legislators, and self-dependent, useful members of society.**

F. **The certainty that if education were left to those only whose parents appreciate, or are able to pay for it, it would be carried on in the interest of sects, of parties, or of cliques;** whereby the dangers of future class prejudices, sectarian animosities, and consequent civil disturbances, would seriously interfere with the peace and progress of society.

179. *How then is the business of education conducted in the United States?*

179. How is public education managed in the United States? What is the school district? Does the State or Federal Government take charge of education? What is taught in the primary schools? At whose expense? What are the Government schools called? Are the people free to patronize other schools?

We have already alluded (See Section 57,) to the School District, as the smallest political division in our system. In each of these, the State (not the Federal) Government provides for the support of a public school, in which reading, writing, and arithmetic are taught to all children between the ages of six and eighteen years, whose parents choose to send them. **The whole expense of this instruction is borne by the public, in the shape of taxes,** though the manner in which the taxes are raised varies in different States. **In no case is the pupil charged with any part of the cost.** These schools are called **Common,** or **Public** schools. Those who prefer to send their children to private schools are, of course, free to do so. But the money paid for such schooling is not deducted from any man's school tax.

180. Besides these schools for teaching the primary branches, others are provided by the State, especially in the cities and larger towns, such as **Grammar** schools and **High** schools, where boys are fitted for college; **Cosmopolitan** schools, where modern languages are taught; **Evening** schools for the benefit of grown persons, who have no spare daylight for study; and **Normal** schools, where young persons are prepared for the business of teaching. Above them all comes the **State University**—at least in some of the States, as **Michigan** and **California**—where **any** person, male or female, may pursue the highest course of instruction necessary

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180. What school besides primary are provided by Government? What are Grammar and High schools? Cosmopolitan? Evening? Normal? What States maintain free Universities? What is a University? What distinctive principles are observed in all the public schools? Is any charge made for tuition? Are they open to all? Why? Are sectarian doctrines allowed to be taught? Are public moneys granted to private schools?

for professional life. Throughout all these schools, several distinctive principles are carefully observed. These are:

A. **No charge is ever made for tuition.**

B. **They are open to all comers, without distinction.** Rich and poor, black and white, members of all churches or of no church, male and female, all are alike entitled to education at the public charge. **As all are equal before the law, so all are treated exactly alike by the law.**

C. **No sectarian doctrines are allowed to be taught in any of them.**

D. **No public money is allowed by law to be appropriated to any except the regular public schools.**

LESSON XV.

OF FREE EDUCATION BY THE STATE, NO. II.

181. We have stated (Sec. 167) that "among the duties of Government stands the obligation of promoting among the citizens the principles of personal morality." But religion and morality are best promoted by teaching them as a part of the education of children. Now, the business of the Churches is to teach religion. Their ministers are all educated men. *Why then would it not be better that ministers should have the control of all education?*

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181. Is it not better, considering that religion and morality are a necessary part of education, that the public schools should be controlled by ministers? What is the American mode of promoting religion among the people? If the State should teach the doctrines of one sect only, what would result? What if it teach the doctrines of all sects?

It has already been explained (See Lesson XIII), that the American method of promoting religion is the indirect one of equally protecting all forms of faith and of giving to none any legal advantage over another. To teach the doctrines of any **one** sect at the public expense would, to that extent, unite the State to that sect, resulting in an injury to other sects, whose doctrines were not so taught. And to divide the school money raised by taxing **all** citizens, regardless of creed or no creed among the **different** sects, would be an union of State with **all** churches, whereby they would have a direct interest in politics, **and their ministers, leaving their pulpits to wrangle with each other in and around legislatures over the division of the school money, would soon introduce politics into the churches, and the churches into politics.** Furthermore, children educated in sectarian schools are likely to be taught sectarianism above all other things, **for it is on their schools that all sects rely to a great extent for their own perpetuity.**

182. Now history shows it to have been a common thing for sectarians to be fanatical and bigoted; each believing that his own creed was the only one commanded by God, and therefore, binding on every conscience, and necessarily hostile to all other creeds, which he often believed it his duty to exterminate if possible. Even in this nineteenth century there are many who believe their own church to be the only true one, and all others to be obnoxious to the Deity. Such devotees are apt to be very sensitive on the subject of their faith,

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182. What does history teach of the liability of sectarians to intolerance? Are they inclined to believe themselves or others right? Are they sensitive about their creed? What do this tenacity and sensitiveness lead to? What is the only preventive of this? Why should children of different sects be educated together? Must the separation of Church and State be complete?

especially when their peculiar doctrines embrace matters not within the province of reason. This tenacity and sensitiveness of opinion lead to irreconcilable differences, and if these are uncontrolled, to bitter hatreds, persecutions, intolerance, and civil war. **Hence the necessity of subordinating the externals of all religions to the law of the land,** and the danger of allowing any portion of the rising generation to be educated to believe that the church should control the civil government. **Hence the necessity of educating the children of all sects as much together as possible, so that**—whatever religion they may embrace—**they may have learned in common to respect each other's rights under the law.** For these reasons, **the separation of Church and State must be complete.** There must be positively **no** point of contact between them, for if there were **one,** history proves but too clearly that **there would soon be many.**

183. The American idea on this subject is therefore clear and unmistakable. We say: **Let the various churches teach their own children religion as they understand it, in their homes and in their Sunday schools.** Let them establish private schools and seminaries, where they may teach their own faith if they choose. All are protected in that right. **Let the habits and manners of children attending the State schools be formed on the principle of the Golden Rule.** Let honesty, sincerity, politeness, truthfulness, honor, and mutual respect, be inculcated by precept and example. **These, together with the free culture of the mind, pave the way for purely religious teachings. But with the doctrines of the various sects, neither the Government nor the Government schools can have**

183. State the American idea fully on the relation of Church and State?

any relation whatever, without danger not only to the best interests of both, but to the public peace.

184. So sensitive is the truly American mind on this subject, that whenever the attempt is made (as it frequently has been) to secure grants of public money for the benefit of particular churches and church schools, or to obtain for a sect the control of the public schools, **it thrills through all the nerves of public opinion, like the rumors of coming pestilence, for it is felt as a vital assault upon the liberties of the nation.**

185. *Why does not our law leave the business of educating children to their parents? Is it not unjust that persons who have no children should be taxed for the education of those of other people?*

There are many parents too poor to pay for educating their children, or too ignorant themselves to feel the necessity for so doing, or too needy or greedy of their children's earnings to spare them from work long enough to go to school. But as the children of such parents would, of course, grow up ignorant and vicious, childless persons who have the same interest in public order and security as parents have, would suffer in common with others in life, liberty and property, from the crimes of such children; and would be taxed for their share of the expense of arresting and punishing the criminals. But we have already seen that education costs less than punishment, to say nothing of its greater humanity. **Hence childless persons have an equal interest**

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184. How are attempts to get grants of school money or the control of common schools by a sect felt by all true Americans?

185. Why does not our law leave education to the parents? What would become of the children of poor and vicious parents if the State failed to educate them? Are childless persons interested in the security of society? Do they have to be taxed for the arrest and punishment of criminals? Is education cheaper and more humane than punishment? Is there any injustice in taxing childless persons for educating other people's children?

with all others in public education, and there is no injustice in taxing all alike for the support of public schools.

186. *Are there not very different notions connected with the word "Education"? What is the American idea of it?*

The word "education" is derived from the Latin word "Educo," which means **"to draw out."** Used in its highest sense, it means **the development or unfolding of all the powers of man, as they were implanted in each individual by his Maker.** This of course tends to cultivate the **individuality** of each mind; that is, **to bring out any special talent with which it was endowed by nature.**

To illustrate: the acorn is not a tree, but only a seed, which, if it be planted in a rich soil, where the rains will nourish and the sun warm it, will spring up and grow, slowly but surely, into a noble oak. **No training will produce a pine tree out of an acorn, nor an oak tree from the seed of the pine.** But neglect, a poor soil, or exposure to injury, will prevent the seed from sprouting, or will dwarf or destroy the growing tree. **So with the mind. As God made it, so will it develop, each like each seed, after its own kind, if opportunity and culture are applied to it. If these be wanting, it will slumber on, as unproductive as the seed sown upon the rock.** If these be misapplied, it will be distorted or destroyed; and that instruction **is** misapplied which would treat all minds alike, or seek to change the laws which Creation has impressed upon each mental organism.

187. The **true**, that is, the **American** idea of education,

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186. What is the word education derived from? What does it mean when used in its highest sense? Give in your own language the illustration from the acorn?

187. State the American idea of education?

seeks the development of each individual, the cultivation of all his powers and the suppression of evil in him. It seeks the good, the beautiful, the true. It aims to make each man independent, intelligent, self-reliant, just, practical, capable of examining both sides of all questions before pronouncing judgment, familiar with human nature and its short comings, upright, honorable, merciful, thoughtful, and kindly disposed to all other men. It seeks to qualify all men to form, hold and express opinions, while it especially inculcates respect for the opinions and rights of others. It seeks to promote universal common sense, to make freemen—free above all things in mind, without which there can be no other freedom; to make men law-abiding, tenacious of rights, opposed to wrongs, progressive, energetic, faithful to trusts, and ambitious of a good name. Such is the ideal character of the American citizen. Such the expression of the American idea of education.

188. To the question, "Are there not very different notions connected with the word **Education?**" we reply that there are those who would treat all minds alike, in cramming the memory with the dead precedents of antiquity, while they bow the reason to the dust in abject submission to authority. To such teachers of despotism, learning is to be gathered solely from the writings and sayings of a certain school of men. **Progress is forbidden, for the mind is fettered in its search for truth among the works of the Creator.** In such schools, those arts and accomplishments may be taught that stir not the reason which is latent in every mind; but the "development" the American seeks is not

188. State the despotic notion of education? Is a man trained under this notion fit to be a voter?

for their pupils. For them the flaming sword of authority, like the angel's at the gate of Eden, guards every approach of freedom of inquiry. "Thus far shalt thou go and no farther," greets their eyes at every turn. Such "training" (for it is not education in the American sense) **characterized the despotisms of the middle ages, and prevents the Chinese mandarin from being guilty of the impiety of knowing more than his fathers. It tends to destroy the spirit of liberty, and restore despotic authority whenever and wherever it may prevail. The American idea of education has filled the patent office with more than 100,000 new inventions in a third of a century.** The other is incapable of progress, for it can at the best only repeat itself. **No man who has merely been trained to accept another's opinion, and not educated to form his own, is fit to be entrusted with the ballot.**

NOTES—"With us the qualification of voters is as important as the qualification of Governors, and even comes first in the natural order. *The theory of our Government is—not that all men, however unfit, shall be voters—but that every man, by the power of reason and the sense of duty, shall become fit to be a voter.* * * * Education must prepare our citizens to become municipal officers, intelligent jurors, honest witnesses, legislators or competent judges of legislation—in fine, to fill all the manifold relations of life. For this end it must be universal. The whole land must be watered with the streams of knowledge. *It is not enough to have, here and there, a beautiful fountain, playing in palace gardens; but let it come, like the abundant fatness of the clouds upon the thirsting earth.*"—*Horace Mann: Lecture on Common School Education*, p. 84.

"Germany, with most of the other continental countries, England, and the United States, present three different methods of administering the national elementary education. The Prussian educational system is purely Governmental, emanating solely from a minister of instruction immediately dependent on the crown. The universities,

the gymnasia and the primary schools are all under laws and regulations, which proceed respectively from the crown, from the provincial government, and from the communes (villages). Every child in the kingdom is obliged, under pains and penalties, to attend school at least from the age of seven to that of fourteen, and the result is that the Prussian people are efficiently educated throughout the entire community, and that the universities send forth a large body of highly educated men. The national education of all the German States closely resembles that of Prussia. The universities, colleges and primary schools of France are in like manner established and directed by Governmental authority. Permission is, however, given to any teacher, under certain conditions, to open a private school; and denominational schools may be registered on the Government list of educational institutions. But in England, no schools (except those connected with pauper, naval, military, and penal establishments) are initiated by the civil government, or to any considerable extent managed by it. The education of the people is under the care of the established church and of the other religious organizations, and the Government comes to their aid by bestowing grants on certain conditions when its assistance is required. The system is entirely different in the United States, where, though the State Governments take the initiative, they only go so far as to ordain that schools of a certain character must exist among a given population. All the questions concerning the buildings, teachers, and methods of instruction, are determined by the people in their capacity of free citizens. The Government provides for education, but leaves to the people the duty of accomplishing the provision. Consequently, there is much diversity in the educational condition of different parts of the country, the school system being generally most complete in the most compactly settled States, especially those of New Engand."—*American Encyclopedia, Art. Education.*

LESSON XVI.

OF THE GOVERNMENT OF THE MAJORITY.

189. If any number of people attempt to live peaceably together, they can do so only in one of two ways: Either one must govern and the rest obey, which is **monarchy**, or they must agree among themselves that each shall be free to do whatever he pleases, so long as in doing so he does not prevent others from doing the same, which is **republicanism.** *Now if all men were virtuous, and inclined to do to their neighbors only what they desire their neighbors to do to them, would such things as government and law be necessary?*

Clearly not, for the principal object of these is to protect the lives, liberty, property and happiness of the citizens, by the prevention and punishment of crime, which would not exist if all men were perfect.

190. It follows then that if law and government must exist, and must be based, as the American idea requires, upon the consent of the people, that there must be some mode agreed on, **to decide between the different opinions that are certain to be advanced by different portions of the people as to the details of that law and government.** If there is to be no submission of many to one, as under the monarchical form, then the people must be unanimous, or else it must be agreed that either the **majority** or the **minority** are to have their will over the rest.

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189. Would government or law be necessary if all men were virtuous? Why not?

190. If they must exist, is it necessary that common consent should indicate whether the majority or minority shall rule? If all submit to one, what form of government results? If the many submit to the few, what?

191. *Suppose the minority were to rule, what would be the result?*

An **aristocratic** or **oligarchic** form of government, under which **the few rule the many,** and soon acquire such wealth and power, hereditary or otherwise, that they become able to override the liberties of the masses?

192. You see, then, that **if one governs while the rest obey, we have a monarchy; if a few rule the many, we have an aristocracy. A republic, therefore, is possible only where the many rule the few.** Hence, throughout the whole American system, whether in elections by the people, or in public meetings, or in the acts of associations or of legislative bodies, **every question put to vote is decided in favor of the majority of the votes cast.** This, in fact, is the only manner in which it can be ascertained what public opinion is. We learn this all-important fact by counting the individual opinions as expressed by the ballot. **And when the majority have carried an election, the minority have to submit to the result.**

193. *To what extent must the minority submit?*

Only so far as to allow the men elected by the majority to take peaceable possession of their offices, or the measures carried by the election to take the form of law, without further opposition on their part. If Democrats elect their man for Governor, the Republicans must respect him as Governor. If Republicans elect a majority to the Legislature, the laws that Legislature passes are binding on Democrats.

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191. What would follow if the minority ruled?

192. Why does the majority rule in the United States? To what does the rule of the majority extend? What is the object of a popular election? What must the minority do when they have lost an election?

193. How far must the minority submit? Are public officers, elected by a majority, the servants of the *whole* people? Should an officer discriminate between party friends and foes, of what would he be guilty?

The theory is, that whoever is elected to office by any party becomes at once the officer of the whole people, regardless of party. Should he attempt to discriminate between party friends and foes, in his administration of the government (except in the appointment of his political friends to office), such conduct would at once render him liable to impeachment, for it would be a violation of his oath of office.*

194. And here it is necessary to bear in mind two principles:

A. **All the rights of the minority, as citizens, are guaranteed by the Constitution and laws, and are just as complete after the minority have been defeated at an election as they were before.**

The least attempt on the part of the majority to interfere with those rights would at once be repressed by the Courts, or, if necessary, by the whole civil and military force of the State or Nation, or both. If the majority were to undertake to disregard the civil power, or resist the national forces, then they would be guilty of treason. **In fact, the great benefit of a Constitution and its main object are to protect the minority from the oppressive and arbitrary action of the majority:** to check popular action under temporary excitement, until passion can subside and reason regain its supremacy.

B. **The minority must quietly submit to the majority on those points decided by the election.** If they resist by force, they become guilty of treason.

*See Sec. 109.

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194. Are the rights of the minority under the Constitution and laws affected by a defeat at an election? What would result if the majority should attempt to interfere with those rights? If the minority resist the majority by force, of what are they guilty?

195. *But suppose an election has been unfairly or illegally conducted, have the minority no remedy?*

Certainly. The laws regulating elections are very full and exact in every State. They prescribe who may vote, and how voters shall be registered, so that persons not qualified attempting to vote may be detected and punished. They provide sworn officers to receive and count the votes; and for a recount by other officers, in case the votes are claimed to have been incorrectly counted. In elections of members of any legislative body, each house, being the judge of the qualifications of its own members, examines and decides all questions touching contested elections of such members. If anything can be proven illegal or fraudulent in any election, all necessary means for the relief of parties injured thereby are thus provided by law. Such cases are of frequent occurrence, and can always be peaceably and fairly settled.

196. *But suppose party spirit runs high, and the questions at issue have produced keen excitement among the people, so that the minority feel chagrined and aggrieved by their defeat. Have they then no remedy?*

Their only remedy in such case is an appeal to public opinion. They may talk, write and publish as much as they please, for the purpose of strengthening their party for the next election, which is sure to occur in one, two or four years, during which period **the hope of winning the victory next time goes far to soften the hardship of defeat. But anything more than agitation is entirely inadmissible.** Otherwise, the

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195. What remedy have the minority if an election be gained by fraud, or illegally.

196. Suppose party spirit runs very high, and the minority feel aggrieved by their defeat, have they no remedy? If so, what? What would result if they had the right of resistance? What has resulted from the armed resistance of minorities in Mexico and Peru?

whole fabric of government would be revolutionized or overthrown on the occasion of every election.

If a rebellion is to follow **one** defeat at the polls, it must be allowed **to all**; and then instead of the beautiful order and system of our laws, universal anarchy and civil war would continually desolate the land.*

197. *Is not the power of the majority in the United States so unlimited as to be liable to abuse?*

This depends upon several conditions:

A. **So long as it is exercised wholly within the limits prescribed by law,** as by voting legally at regular elections, **it can produce no injury to the rights of the minority.** This power would be an intolerable despotism, worse than monarchy, were it not for the Constitutional limitations which protect the minority. **This pre-eminent virtue in Constitutional Governments cannot be too strongly impressed upon the minds of the people.**

B. **When it is exercised outside the law,** as by mobs, vigilance committees, and lynching parties, **it becomes wholly irresponsible and tyrannical.** But the law-abiding disposition of the people generally discourages this class of movements, which, though they have frequently occurred in the frontier settlements,

*In Mexico and Peru, ever since they became republics (so called) nearly every election of importance has been followed by armed rebellion or revolution, originated by the party defeated at the polls. Thus the unwillingness of minorities to submit peaceably to the majority has almost wholly destroyed the protection which Government ought to afford to life, liberty and property in those countries. The Spanish-American republics have copied the *forms* of our institutions, *but their people have never understood American ideas*, nor will they ever have the opportunity to do so until they have first thoroughly separated the Church from the State and established free education by the State.

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197. How far is the power of the majority liable to abuse? Is it so liable when *legally* exercised? How in the case of mobs, vigilance committees, and lynching parties? Are these destructive of institutional government? How are majorities checked by public opinion?

are the exception, not the rule, of American conduct. **These movements are destructive of institutional government.** All right-minded citizens will bend their efforts, if need be, to improve defective administration of the laws by means clearly within the Constitution. **But they will not set the ship of State on fire for the sake of destroying rats and cockroaches.**

C. Majorities in the United States may and do exist on such a variety of subjects, and with reference to so many different districts—while they are so liable to change from time to time, that the use made of their power is always moderate. **In fact, of late years their power has been almost wholly confined to the appointment of their partisans to office. All party leaders know and feel that any abuse of power would recoil upon them at the next election, and probably put them into the minority in their turn. American majorities are therefore very fearful of public opinion, and this is generally a sufficient check upon them.**

LESSON XVII.

OF THE BALLOT.

198. Three great advantages which a Republican form of government possesses over the Monarchical are these: **The Republic is constructed solely to benefit the people; the Monarchy, to benefit the governing**

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198. Whst is the object of the Republican form of Government? Of the Monarchical form? Can a distinct ruling class be formed in a Republic? Why not? Can such a class be formed under a Monarchy? Who constitute such class? How do they perpetuate their power?

class at the expense of the people. Hence, in the Republic, whose public officers are continually changing, no ruling class distinct from the people can be formed; but in the Monarchy, not only the Kings, the nobles, and the established Church, but all the subordinate officers, become banded together as a ruling or governing class, the higher officers bequeathing their power, with their titles and wealth, to their children, whether the latter be fit to exercise such power or not.

199. In the Republic, power is divided among the different departments of the Government. The Legislature may pass a bad law, but it cannot enforce it. However much the Executive may desire to change the laws, he can only enforce those the Legislature makes. The Judiciary can only administer the laws as it finds them. **But in an Absolute Monarchy the King makes, executes and administers the laws to suit himself. Consequently his power is unchecked, and usually goes on increasing until the people revolt, and recover back some portion of their liberty by force.** This tendency to augment royal power exists even in Constitutional Monarchies. This was displayed several times in the history of England, and has been manifested in almost every European Kingdom.

200. Though under a wise and good King, Monarchy may be exercised solely for the good of the

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199. Is power divided under the Republican form? How? Under the Monarchical form? What results from the concentration of power? How does this end?

200. May not the people be happy under a wise and good King? What guaranteee have they for the continuation of such happiness? How do they know what they are to expect from the son of a good King? How are they to help themselves if he proves to be a tyrant? Wherein lies the crowning advantage of the Republic over Monarchy? Whose fault is it if a bad man be elected to office?

people, the disposition of the King is the only guarantee for good government. A good King dies, his son succeeds. Who knows, until his reign has begun, that he will imitate his father's virtues? And if he does not—if he be vicious and cruel, like Nero and Caligula; warlike, like Charles XII of Sweden; effeminate, like Heliogabalus or Louis XIII of France; haughty and overbearing, like Henry VIII and Elizabeth of England, how are the people to help themselves, except by revolution, whose issue may prove that "it were better to bear the ills they have, than fly to others they know not of"?

Now the great advantage the Republic offers over Monarchy is in this: that while the powers granted to each public officer are so limited that his hands are tied for evil, and his term of office is too short to allow the necessary time in which to organize conspiracies against the public good, he is also liable to be replaced by a better man; **perhaps** appointed to fill the vacancy occasioned by his own impeachment, **certainly** at the close of his term of office. And herein lies the crowning glory of our system. **We have the whole community from which to select our office-holders. Consequently it must always be the fault of the people themselves if any but the best men are selected for office.**

201. *It is the privilege of every voter to express his individual preference in the election of public officers, and his private views as a contribution to public opinion, by means of the ballot. This privilege is called the "Right of Suffrage." What is a ballot?*

The ballot is a piece of paper on which are written or printed the names of the persons and offices respectively

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201. What is the right of suffrage? What is a ballot? Describe it?

for whom the citizen wishes to vote, and his "yes" or "no" respecting the proposition on which public opinion is to be taken. This paper is folded so that no one except the voter can know how he votes. A ballot used at an election for officers is printed as follows:

For Governor.....JOHN JONES
For Lieutenant-Governor.....HENRY WINKLE
For Treasurer.....JOHN HALIFAX
For Secretary of State.....HIRAM OLIVER
For Superintendent of Public Instruction..... H. B. DAWSON
For Members of Assembly..... CHARLES S. CAPP, LORING PICKERING, D. C. M'RUER, JOHN H. HITTELL, ZENAS CROWELL

And for all the other officers to be chosen, the name of the person and the title of the office for which he is a candidate must be distinctly printed or written.

If there be a measure submitted to the electors, the proposition must be written or printed upon the ballot, after which must appear the word "yes" or "no."

202. *How is an election conducted?*

At the time fixed in the Constitution or law for the holding of the election, polling places are fitted up by the proper officers, one or more in each school district, town, or city ward, where they will be easy of access to the respective voters in such "precincts," as they are called. The officers presiding at an election are generally an inspector, two judges of election, and the neces-

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202. Describe the mode of conducting an election? What are election "precincts"? What officers preside at elections? Describe the ballot-box? How are the ballots presented and deposited? How many ballots can each citizen vote? Suppose he votes more than once at the same election? When are the ballots counted? By whom? To whom does the county clerk issue certificates of election? When is a measure declared to be carried?

sary clerks. The polls are open at sunrise or at eight o'clock in the morning, and kept open till sunset. A closed box called a "ballot-box" is provided, generally made partly of glass, so that the people can see its contents. A small hole is left in the top of the box. As each voter presents his folded ballot, it is taken by the inspector and at once dropped into the box. Each voter is entitled to but one ballot, and if detected voting more than one, or more than once at the same election, he is liable to punishment.

After all the ballots have been deposited, they are carefully counted by the three officers and recorded by the clerks, **and to those candidates who have received the highest number of votes cast** the county clerk issues his certificate of election. And the measure voted upon is declared "carried," if more than half the ballots thrown are found to be in favor of it. Otherwise it is "lost."

203. *What is the advantage in voting by ballot, rather than by other methods?*

The principal advantage of the ballot is in its secrecy. Every citizen has the right of free opinion. This would be of no use to him unless he were also protected in the **free expression** of opinion. Now, as there is no escape from the result of the ballot, **candidates and their friends are wholly dependent for their success on the votes of the majority.** If it could be known for whom any citizen cast his vote, the disappointed candidates might afterwards injure him; **and for fear of such injury many citizens occupying dependent positions in society might be induced to**

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203. What is the advantage of voting by ballot? Why is secrecy desirable? What would result if every man's vote were known? What is the English mode of voting?

vote contrary to their own wishes. For instance: a wealthy manufacturer or contractor might say to the hundreds of citizens in his employment, "Vote for my friends, or I will discharge you from my works." Now if Americans were to vote as the English do, **viva voce**, that is by **speaking** the names of the persons voted for, the employer could note each man's vote, and could discharge those who voted against his interest. (The *viva voce* method of voting was kept up in England apparently to enable the nobility to control the votes of their tenants; hence the long-continued opposition of the House of Lords to the recent introduction of the ballot in that country.) **But as the ballot is secret, no man knows how another votes, and thus the free choice of the individual is protected.** Even the employés of the Government may vote against the administration; no one can call them to account for what cannot be proved.[a]

204. *Is all voting in the United States done by ballot?*

All voting by the people at elections in the Northern and Western States is required by law to be done by ballot. But in the State Legislatures, and in Congress, all voting is by "Yeas and Nays." That is, each member speaks his vote aloud, so that it may be heard by all present, and recorded by the clerk. The reason of this is, that **legislators are the servants of the people, to whom they are responsible for all their public actions.** But the people would not know whether to approve or condemn their acts, unless it were known exactly what they have done. The legislator is judged by **his record**, and this is found in the books of the clerk of the House of which he is a member, and is

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204. Is all voting done by ballot? How is it in the Legislatures? In Congress? Why is publicity necessary as regards the votes of public servants?

also published in the newspapers from day to day. Publicity here is as essential as secrecy is in elections by the people.

205. *How is voting managed at public meetings, and at those of associations and corporations?*

The presiding officer after stating the motion calls out, "All in favor of this motion will signify it by saying Aye." Contrary minded will say "No." He judges by the sound whether the Ayes or Noes are most numerous. But sometimes they are so nearly equal that he is doubtful. A "division" is then ordered. Sometimes this is effected by his calling out "all in favor of the motion will hold up their right hands." These being counted, the same request to all opposed to do likewise settles the question. Or the two sides rise and go to the opposite sides of the room, where they remain until counted.

But at meetings of political conventions called for the purpose of making nominations for office, the choice of candidates is generally effected by ballot. So also at elections of officers by societies and corporations.

NOTE.—(a) The writer is, of course aware of the many devices resorted to by political parties, in so marking the backs of tickets with colors, vignettes, etc, that their challengers at the polls may know the political complexion of every voter. But this practice, though efficient for the purposes of party drill, is subversive of the American idea of the secrecy of the ballot. Probably none of the many inventions of that numerous class who are ever seeking to bend the popular will to their own private advantage, has done more injury to our institutions than this, whereby the party whip has been most effectively applied to the backs of thousands, who otherwise might have voted for the best men, regardless of party; that is, as free citizens, rather than party slaves. The new California Code, has

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205. How is voting managed at public meetings, and at meetings of associations, corporations, etc? Describe a "division" at such meetings? How is voting conducted at conventions, and meetings held for electing officers?

(1872) thrown such restrictions about the ballot, as to render it impossible for any one save the voter, to know for whom he has voted. It is time that the law everywhere forbade all infringements upon the primordial right of a "*free* ballot."

LESSON XVIII.

OF UNIVERSAL SUFFRAGE.

206. *What is the meaning of the term "Universal Suffrage?*

It means that all qualified male citizens shall have the right to one vote each, without regard to their birth, their wealth, religion, attainments, or position in society. It is a term not strictly accurate, because the privilege of voting is far from being universal. Thus women, children, convicts, insane persons, foreign-born men who have not become naturalized, and citizens of other States who have not "acquired a residence," are not entitled to vote in any State. But the term "Universal Suffrage" has been adopted in America, in opposition to the "limited" or "qualified" suffrage of England, **which allows only those persons who have a clear income of a certain sum per year to vote at elections.**

207. *Why are not the several classes of people mentioned in the last section allowed to vote?*

Women are excluded for the reasons given in Sec.

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206. Define the term "Universal Suffrage" as used in the United States? Is the term an accurate one? Who are not allowed to vote? Why has the term "universal," as applied to suffrage, been adopted in America? Define "limited" or "qualified" suffrage?

207. Why are women not allowed to vote? Children? Convicts? Insane persons? Foreigners? Citizens of other States?

104, and also because, according to the views hitherto prevailing, their natural sphere is the family, where the domestic occupations of the home and of society should exclusively occupy them. These occupations cannot be laid aside, in order that women should concern themselves in public matters, without great injury to their more important duties.

Children are excluded, because they cannot have sufficient knowledge to take part in the government of the country.

Convicts are excluded, as those who break the laws are not fit to have any voice in making them. All persons convicted of **felonies,** that is, crimes whose punishment is confinement in the State Prison, are deprived of their votes forever after, unless pardoned by the Governor before the expiration of the terms of their respective sentences.

Insane persons are of course unfit to have or exercise the right of suffrage.

Foreigners cannot be expected to understand our complex system of government, or to have any interest in the result of an election. If they desire to become citizens, they can easily do so by complying with the law. If not, their votes might be cast in the interest of a foreign nation.

And citizens of other States, having the right of suffrage at their own homes, cannot enjoy this right in two places at once.

208. *Considering that a large part of legislation consists in making laws about property, and in levying taxes, why is*

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208. Why is not the English plan of requiring voters to own property better than the American plan? Which is the most important; life, liberty, or property? Have the poor any interest in questions of mere property? Have they in life and liberty? Which are the most numerous class everywhere, the rich or the poor?

not the English property qualification of voters better than ours?

Because another and more important portion of law-making, and a large proportion of the duties of the executive and judiciary, (who are often elective in the United States, but not in Great Britain) **relate to the protection of life and liberty, in which all are alike concerned, whether rich or poor;** while those laws relating to **property only** do not concern the poorer classes. Also, because **no one can be voted for unless he be himself a citizen and entitled to vote.** Now, it often happens that well educated men are poor, so that if none except men of property were allowed to vote, some of the best minds in the country would be denied any voice in the administration of the Government.

209. *Who then are entitled to vote in the United States?*

A. **Every man, white or black, born in the United States, who is at least twenty-one years old,** and has resided six months* or more in the State, and thirty days or more previous to the election in the county or precinct where he claims to vote. But Indians not taxed are excluded from the ballot.

B. **All foreign-born men at least twenty-one years old, who have become naturalized citizens of the United States.** And this any foreigner may do by a residence of five years, provided that at least two years before his application for admission as a citizen he shall have declared upon oath, before a court, that he intends to become an American citizen; and at the expiration of the five years he swears to support the Constitution of

*In some States, twelve months' residence is required.

209. Who are entitled to vote in the United States? Name the four classes?

the United States, and to renounce all allegiance to every foreign prince or State.

C. **Sons of persons duly naturalized, who were under twenty-one years of age at the time their fathers were naturalized,** are, if living in the United States, allowed to vote as citizens after they have become of age.

D. **Foreign-born sons of American citizens,** who have returned to the United States, without having become citizens or subjects of any foreign State.

210. *Are the laws relating to citizenship State or Federal laws?*

All laws relating to citizenship and elections are enacted by the several States. But the conditions of naturalization are regulated by Congress under Article I, Section 8, Clause 4 of the Federal Constitution, which gives to Congress the exclusive power "to establish an uniform rule of naturalization." And in 1865, the Fourteenth Amendment to the Federal Constitution was adopted, whereby the number of representatives in Congress of a State denying the right of suffrage to any class of its male citizens (except in punishment of crime) is abridged in proportion to the number of citizens so debarred from voting.

211. *What is the meaning of the phrases, "ballot-box stuffing," "voting early and often," "repeating," and "colonizing," which we hear so often about election time?*

It is carefully provided by law in all the States, that each citizen shall vote **but once** at each election, and

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210. Are the laws relating to citizenship State or Federal laws? How about naturalization laws? What does the Fourteenth Amendment provide on this subject?

211. What is the meaning of the phrase "ballot-box stuffing?" "Voting early and often?" "Repeating?" "Colonizing?" Are such acts criminal? What will result when the people are deprived of the freedom of elections through fraud or otherwise?

that the ballots shall be **correctly counted** just as they were deposited by the voters. But as bad men will always show their contempt for the law, and for the liberties of others, whenever they think they can do it safely, so several varieties of fraud have been invented by dishonest politicians, to secure the election of their friends in spite of the wishes of the honest voters. Thus "**stuffing**" is the corrupt and fraudulent insertion of a large number of ballots into the ballot-box, before the ballots are counted.

"**Voting early and often,**" and "repeating" (which are the same thing), are the acts of such persons as vote more than once at the same or different polls, during the same election.

"**Colonizing**" is the procuring of a number of citizens, whose real residence is outside of an election precinct, to take temporary lodgings within it, so as to control the choice of its voters in their own affairs.

All these, as well as every other device to prevent the fair expression of public opinion at the ballot box, **are crimes tending directly to the destruction of our form of government.** As such they are forbidden, and severely punished by law. **Our system cannot tolerate any interference whatever with the freedom of the ballot.** When the masses of the people are by such means deprived of this, the great palladium of our liberties, **the time will not be far distant when tyranny in its worst form, because devised and established by the worst of men, will overthrow the entire fabric of American institutions.**

NATURALIZATION.

212. *How does it happen that foreigners are allowed to become citizens of the United States?*

213. Who settled America originally? Did any foreigners assist the Americans in the Revolutionary War? Why? What made them, equally with native born

America was originally settled from Europe. Even at the period of the Revolution, many of those who fought on the American side were natives of various European countries, who, like the immediate ancestors of the native-born Americans at that time, came to this country to secure the enjoyment of liberty. **Common opinions made these foreigners, equally with the natives, the champions of freedom. The same community of opinion will produce the same result till the end of time.** (See Lecture 5, *post*). Hence it has always been the American idea that **if a foreign-born resident be sincerely attached to the principles of the Constitution of the United States, he has a right to become a citizen without regard to his place of birth.**

213. A great want in America has always been **population.** It has therefore been deemed advisable to stimulate immigration from Europe by all the means in our power, inclusive of the offer of equal political privileges to immigrants. By these and other inducements millions of people have been enticed away from the poverty and oppression of Europe to become free and prosperous members of our commonwealth. And to this immigration is due a large proportion of the wonderful growth of the United States.

214. *What new idea has resulted from the large immi-*

Americans, the champions of freedom? What will produce the same result till the end of time? What is the American idea on the subject of admitting foreigners to citizenship?

213. What great want has always existed in America? How was it remedied? What has resulted from the inducements offered to immigrants? Were political rights among these inducements? Is the growth of the United States in any degree the consequence of immigration?

214. What was the old European notion as to allegiance? Why was this doctrine universally accepted? What inconveniences were occasioned by it to American naturalized citizens? Have any European Governments changed their views on this subject? Which of them, and when?

gration of Europeans into the United States on the subject of change of allegiance?

The old European doctrine was that Kings have a divine and inalienable right to the obedience of all persons born within their dominions. "Once a subject always a subject," was for centuries an English maxim. Of course, under this view no man's personal wishes could be consulted as to his nationality any more than as to his color, his language or his race. To the Prince under whom he was born was his allegiance due through life, regardless of his inclination or of his residence in a foreign land. Among peoples who were constantly at war with each other, and whose men were always wanted for soldiers, while the restrictions upon communication and commerce prevented all but a very few from seeking a foreign residence, this doctrine long held undisputed sway. **But with the rise of the United States the question of naturalization and allegiance assumed an importance previously unthought of.** The Germans and Irish crossed the Atlantic by the million, sought admission to American citizenship, became thus subject to military duty in their adopted country, and yet were liable to be treated as traitors if captured in arms against the country in which they were born. They were besides held liable to the various obligations of subjects in case of a visit to their native land. It is only very recently that Germany and Great Britain have been induced to yield their time-honored prejudice on this subject* to the American idea, which is—

*Germany first recognized the right of expatriation of her subjects by treaty with the United States in 1867. Great Britain followed her example in 1871.

215. *That every man has the natural right to emigrate from his native country, and to transfer his allegiance to any other.**

The right of emigration is consequent upon the right of free communication. (See Lesson 10.)

Government by and for the people would be imperfect if any class of the people, such as resident foreigners, were permanently excluded from all voice in its management. As the power of no nation can be extended so far as to protect all the rights of its subjects who reside within the territory of another nation, such subjects would lose the benefit of all Government unless they were protected by that of the country where they reside. **But on our theory, those who are protected are those who constitute the sovereign power. Hence the doctrine of equal rights to all the people compels the admission to citizenship of all foreigners who desire it, and who comply with the laws enabling them to identify themselves with our people.**

216. **Moreover, the existence among us of large bodies of people having no interest in the Government would naturally breed discontent and insubordination among them,** thus converting them into a dangerous and turbulent element, especially in case of a

*See Constitution of Indiana, Art. 1, Sec. 36; Kentucky, XII, 29; Vermont, I, 19.

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215. State the American idea? What other American idea is the right of emigration consequent upon? Would Government by and for the people be perfect if any class were permanently excluded from its management? In what case would unnaturalized foreigners be without the benefits of government? Why does our system compel the admission of foreigners to citizenship.

216. What would be the result if large bodies of residents had no interest in the Government? How would this affect the United States in case of war? How is this cause of disturbance avoided?

war between the United States and the country they came from. This is avoided by the transfer of their allegiance to the United States.

NOTES.—(a) To illustrate how small a proportion of the whole population really exercises the franchise, the following table, showing the white population of the whole United States compared with the number of votes cast at several of the Presidential elections, will prove interesting:

Years.	White Population.	Votes Cast.	Per cent of Votes to Pop.
1828	10,537,378	1,160,418	11
1832	11,169,616	1,290,468	11½
1836	12,117,968	1,501,298	12
1840	14,189,895	2,402,659	17
1844	15,369,287	2,702,546	17
1848	17,154,551	2,874,712	16
1852	20,027,899	2,936,896	14

This gives an average of fourteen voters to each one hundred of the whole white population. But there are always a large number of voters who do not attend the elections. The usual calculation is one voter out of five of the population. It will thus be seen that each voter represents five persons (See Sec. 104). *The above table is from Leiber's C. L. and S. G.*, p. 432.

"Virginia was the first State in the world (1655) composed of separate boroughs diffused over an extensive surface, where the Government was organized on the principle of universal suffrage. All persons without exception were entitled to vote. * * * They considered it hard and unagreeable to reason that any persons shall pay equal taxes, and yet have no vote at elections. Servants, when their time of bondage was completed, at once became electors, and might be chosen burgesses."—1 *Bancroft*, 231.

LESSON XIX.

OF "NO TAXATION WITHOUT REPRESENTATION."

217. In Sec. 71, we have seen that **the principal object of the American Government is the protection of the lives, liberty and property of the people.** This duty involves the employment of a large number of officers, who must be provided in every State, county and town, for the purpose of arresting, trying and punishing criminals. All these officers must be paid for the time and skill devoted to the public service. There must also be provided an army and navy, for the common defense in time of war, and for the protection of our shipping in foreign places.

218. The pay of all these public servants, and other necessary expenditures of Government, require annually large sums of money, and this money can be obtained only from the payment of taxes by the people.

219. *Are not taxes paid by the people under all forms of Government?*

They are. But in nearly all countries, except the United States and Great Britain and her colonies, the people until the present century have had no voice in levying the taxes, nor any recognized right to inquire into the public expenditure.

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217. What is the principal duty of the American system of Government? What does this duty involve? Must public officers be paid for their services? How about an army and navy?

218. Where must the Government get the money to pay its expenses?

219. Are not taxes paid by the people under all forms of government? Have the people everywhere a voice in levying taxes? Have they any right to inquire into the public expenditure? In what countries are these rights conceded?

220. *What are the Constitutional principles of the United States on this subject?*

Article 1, Sec. 2, clause 3, of the Federal Constitution, reads: "**Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers.**" And Section 9, clause 4, of the same article provides that: "No capitation or other direct tax shall be laid, **unless in proportion to the census or enumeration** hereinbefore directed to be taken." (This census is taken every tenth year.) Article I, Section 8, reads: "The Congress shall have power to lay and collect taxes, duties, imposts and excises, * * * but all duties, imposts and excises **shall be uniform** throughout the United States."

Thus representation and direct taxation, so far as the Federal Government is concerned, must be in proportion to population. And Congress has the exclusive power to lay and collect Federal taxes, but can only do so in an uniform manner throughout the whole country.

221. The same principles precisely are found in all the State Constitutions. **Their taxes are laid only by the representatives of the people, assembled in the Legislatures,** while these Representatives are apportioned every five or ten years, **according to the population, and taxation must be equal and uniform throughout the State.***

*See the Constitutions of the several States.

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220. Quote the Constitutional regulations on the subject of representation and direct taxation? How are representation and taxation apportioned? How often are Representatives apportioned? What body has the sole power to levy Federal taxes? How must direct taxes be laid?

221. What principles on this subject are adopted in the State Constitutions? Who levies the taxes? How are the Representatives apportioned? How often? How must the taxes be apportioned?

222. *How many different sets of taxes are paid by the people of the United States?*

Every tax-payer is a resident not only of the United States, but of his own State, his county, and his town or city. Each of these districts has its own government, its own expenses to pay, and consequently raises its own taxes. Thus:

A. **Federal taxes** are levied by Congress, and are used to pay the expenses of the Federal Government.

B. **State taxes** are laid by the State Legislatures, for the purpose of defraying the cost of the State Governments.

C. **County taxes** are imposed by the County Commissioners or Supervisors, and are expended for county purposes.

D. **Town taxes** are voted at town meetings, and city taxes by the Aldermen of the city, and these cover the cost of the Town or City Governments. And in many States each School District taxes itself for the support of its public school.

223. But we have seen that the people who pay these taxes vote for the members of Congress, for the State Legislators, for the County Supervisors, and for the City Aldermen. We have also seen that, by virtue of the law of agency in the system of representation, **the people really tax themselves, through their chosen agents.** In this, the only way possible, the tax-payers **give their consent beforehand to all demands that may be made upon them for taxes**; and provided there be no

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222. How many different sets of taxes are paid by the people of the United States? Who levies Federal taxes, and for what are they expended? State taxes? County taxes? Town and city taxes?

223. Do the people elect the representatives who lay these several taxes? Do they therefore tax themselves? How?

fraud or mismanagement of the public funds by the officers, **all good citizens pay their taxes cheerfully.**

224. *Why are taxes usually paid without grumbling by the American people?*

A. Because they know that no Government can be carried on without them; and that without government no man's life or liberty would be secure.

B. Because without government, property would have no value, for thieves and robbers would permit no peaceable possession or enjoyment of it.

C. Because, even though our system of government should cost more than any other, it is worth more; but in reality it should cost less in time of peace, for we have no large standing armies to maintain.

D. Because the taxes are required to be equally assessed upon all property liable to pay them

E. Because they are levied and collected by the agents of those who pay them, and are not demanded by force.

F. Because the people have the right to call their public servants to account for the moneys they receive: to indict and punish those guilty of embezzlement, and to turn out of office at the next election those who betray their trust.

225. *If there be no taxation without representation in the*

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224. Why are taxes generally paid cheerfully by the American people? Can Government be carried on without taxes? Without Government can there be any security to life, liberty or property? Why is Government necessary to give value to property? Is our Government worth more than any other? Does it cost more? Why not? Are the taxes equally assessed upon all? Are they levied and collected by the people's own agents? Have the people the right to call these agents to account? How can they punish delinquents?

225. Is there any representation without taxation in the United States? Are there any persons who escape taxation? How do people pay taxes indirectly? Show how the price of board is increased by taxes levied on the landlord's real estate, and on the merchant's goods?

United States, can it be also said that we have no representation without taxation?

Practically, yes. It may be said that there are no persons in the community, except wild Indians, who escape taxation altogether. There is usually a small poll tax which every man has to pay. **And so long as taxes are laid upon real estate and merchandise, all who live in houses, eat food, or wear clothes, are obliged to pay a part of such taxes in the addition they cause to the prices of rents, provisions, and other articles which the citizens consume.** Thus the owner of a boarding house, which he could rent for $1,000 per year, may be taxed $100. The landlord therefore raises the rent to $1,100. But the tenant paying this additional rent, and also higher prices for taxed provisions than if the merchants who sold them were not taxed, must add all these taxes to the price he would otherwise charge for board. So that the boarder has to pay $4 per week for his meals which without taxes could be furnished for $3. Now as no voters are so poor that they cannot, as a general thing, at least pay for their board, it happens that all who vote do actually pay taxes in some form.

226. *But the rich man, who consumes every year many times what the poor man does, must therefore pay many times as much tax. Why then should he not have votes in proportion?*

A. Because under the American system the property of the few is of small consequence compared with the lives, liberty and happiness of the many. (See Sec. 208.)

B. Because such a distribution of votes would create

226. Why should not the rich who pay high taxes, have more votes than the poor, who pay but little tax? What is the value of property compared with life and liberty? How would equality be affected by allowing votes to property? Would such a scheme be practicable? Why not?

a legal aristocracy of wealth, thus destroying equality among the people.

C. Because it would be impracticable in operation, for no man could accurately state how much he has paid for indirect taxes, and it would be as difficult and expensive to determine each man's voting power on this plan, as to assess and collect his taxes.

227. *Women pay taxes, yet they do not vote. Is not this an exception to the rule, No taxation without representation?*

Apparently it is, yet really it is not. In our Lesson on Representation (Sec. 104) we showed that, according to the original American idea, the family is represented at the polls by its male head. Latterly it is being urged that this idea does not meet the facts, because there are many single women and widows who have no male relative to represent them, but who are nevertheless taxed. It is now a question before the people whether or not, on this and other grounds, women shall be allowed to vote in their own behalf.

228. *How came the principle of "No taxation without representation" to be adopted as an American idea?*

It was inherited from England by our forefathers. The British House of Commons has for centuries claimed the exclusive right to frame the tax laws of Great Britain, by virtue of the fact that its members were the only representatives of the people. The Kings formerly disputed this right, claiming that the crown should exer-

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227. Why is it not an exception to the rule of no taxation without representation, that women are not allowed to vote? Is this theory true in practice? What is the present state of public opinion on the question of women voting?

228. How came the principle "No taxation without representation" to be adopted as an American idea? What was the old quarrel between King and Parliament on this subject? How did it end? Was Parliament willing to do as it would be done by in this connection? How did it treat the American colonies? What was the result of this? What do you know of the Boston tea party?

cise it as a part of the royal prerogative. This dispute was one of the causes of the revolution which ended by the execution of King Charles I, in 1648.* But it has taken England a long while to learn "to do as she would be done by;" and the persistent attempts of her Parliament to force the American colonies to pay taxes, while they were denied representation in that body, was one of the grievances that brought on our war of independence. You have read of the Boston tea party. It was the result of the principle "No taxation without representation."

229. *On what principle are the taxes levied under monarchical government?*

In constitutional monarchies, the American principle prevails to a limited extent; that is, the assembly (called the States General, Diet, Cortes, etc.) votes the taxes as prepared by the crown ministers before the tax can be collected. But the members of such assemblies are not necessarily elected by the people, and can hardly be deemed their representatives in the American sense. In absolute monarchies, like Russia and Turkey, the Emperor or Sultan levies such tax as he pleases. But until the present century, throughout continental Europe, the business of levying taxes was arbitrary, unequal, confused and unjust. For ages an outrageous series of plunderings and robberies was committed upon all whose wealth became known to the court or its spies. Americans, since the revolutionary war have never felt the evils from which their European ancestors suffered owing to the impositions practiced upon them by arbitrary governments.

*See Sec. 73.

229. On what principle are taxes levied under monarchical governments? How in constitutional monarchy? In absolute monarchy? How was it in the middle ages in Europe?

NOTES.—"The following picture of the reign of Stephen in England (A. D. 1124), from the Saxon Chronicles, may be worth inserting:

"The nobles and bishops built castles, and filled them with devilish and wicked men, and oppressed the people, cruelly torturing them for their money. They imposed taxes upon towns, and when they had exhausted them of everything, set them on fire. You might travel a day, and not find one man living in a town, nor any land in cultivation. Never did the country suffer greater evils. If two or three men were seen riding up to a town, all its inhabitants left it, taking them for plunderers. And this lasted, growing worse and worse, throughout Stephen's reign"'—*Hallam's Middle Ages*, 338, *notes*.

During the reign of Henry II, in England, "'The right of wardship was abused, by selling the heir and his land to the highest bidder. * * Women, and even men, *fined* (*i. e.*, paid a tax) to the crown for leave to marry whom they would, or not to be compelled to marry any other. Towns not only fined for original grants of franchises, but for repeated confirmations. The Jews paid exorbitant sums for every common right of mankind, for protection, for justice. Men fined for the King's good will, or that he would remit his anger, or to have his mediation with their adversaries. Many fines seem, as it were, imposed in sport. Thus, the Bishop of Winchester paid a tun of good wine for not reminding the King to give a girdle to the Countess of Albemarle; and Robert de Vaux paid five best palfreys that the King might hold his peace about Henry Pinel's wife. Another paid four marks for leave to eat. Men fined to have right done them, to sue in a certain court, to implead a certain person, to have restitution of the land they had recovered by law. From the sale of that justice which every citizen has a right to demand, it was an easy transition to withhold or deny it. Fines were received for the King's help against an adverse suitor, that is, for perversion of justice, or delay. Sometimes they were paid by opposite parties and for opposite ends. These were called counter fines, but the money was sometimes returned to the unsuccessful suitor." —*Hallam's Middle Ages*, 338.

LESSON XX.

OF THE SUBORDINATION OF THE MILITARY TO THE CIVIL POWER, NO. I.

230. In reading the Constitutions of the several States, one finds such clauses as the following:

"Every citizen has a right to keep and bear arms for the common defense, and this right shall never be questioned."*

"No standing army shall be kept up in time of peace, and the military shall in all cases and at all times be in strict subordination to the civil power."†

"A well regulated militia is the proper and natural defense of a free government."

"Standing armies are dangerous to liberty, and ought not to be raised or kept up without consent of the Legislature."†

231. We also find in the Federal Constitution: "No State shall without the consent of Congress keep troops or ships of war in time of peace, or engage in war unless actually invaded, or in such imminent danger as will not admit of delay."‡

"Congress shall have exclusive power to raise and support armies and a navy; to declare war; to govern the army and navy; to provide for organizing, arming, and disciplining the militia; to provide for calling forth the

*Const. Maine, Art. I, Sec. 16.

†Const. New Jersey, Art. I, Sec. 12; Maryland, Art. I, Sec. 27; California, Art. I, Sec. 12.

‡Federal Constitution, Art. I, Sec. 10, Clause 2.

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230. Quote the clauses from the State Constitutions on the right to keep and bear arms? On a standing army, and the subordination of the military to the civil power? On the militia? On standing armies in their relation to liberty?

231. Quote the clause from the Federal Constitution on the limitation to the power of the States as to keeping troops and engaging in war? As to the exclusive powers of Congress over war matters?

militia to execute the laws of the Union, suppress insurrections, and repel invasions," etc.*

232. *Now, what mean these regulations?*

They give the expression to three purely American ideas, all of vital importance to our whole system.

A. That war itself is an evil, utterly inconsistent with the life, liberty and happiness of the individual, and therefore to be resorted to only in defense of life, liberty and happiness, nor then (emergencies excepted) except by the deliberate choice of the whole nation represented in Congress.

B. That not only are armies, especially standing armies, dangerous to the liberties of the people, as has been and yet is constantly proved by history, but that the habits of camp life are fatal to the personal independence of the soldiery, thus in time unfitting them to be freemen.

C. That as the moral strength of the nation lies in the aggregation of individual opinions, thus forming public opinion, or the public mind; so the physical force of the nation resides in the arms of the people, which constitute the public body. As the mind of a man rules his body, so the public mind should rule the public body.

Let us examine these propositions in detail.

233. *War itself is an evil, utterly inconsistent with the life, liberty and happiness of the individual, and therefore*

*Federal Constitution, Art. I, Sec. 8, Clauses 11-16.

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232. Repeat the three principles which are expressed by these clauses?

233. What is the chief subject dwelt upon in history? Who has always been the favorite hero? Why is monarchy favorable to a state of war? On whom fall the evils of war? What liberty can the subjects of a warlike king enjoy? Would there have been less war if the consent of the people had always been necessary before declaring it?

to be resorted to only in defense of life, liberty and happiness; nor then (emergencies excepted) except by the deliberate choice of the whole nation represented in Congress.

History is written in the blood of the slain. Its every page is stained with the gore of multitudes who, in every country except our own, have been continually offered up as sacrifices to the ambition of their rulers. For ages the conqueror has been the favorite hero; that is, the monster who has killed the largest number of his fellow-beings, made the most widows and orphans, destroyed the greatest amount of the products of human labor, and done the most to prevent the progress of civilization. For the wars waged to aggrandize such men, monarchy is largely responsible.[a] The King is but one man. The power to wage war rests in his single breast. His standing army is ever ready to attack his weaker neighbors, or to crush his own people in case of revolt against his tyranny at home. On whom fall the evils of warfare, if not on the masses of the people? What matter to the rank and file of the army who are slain, or maimed for life—what matter to those who are beggared in fortune—to the widowed and orphaned—whether their sovereign be victor or vanquished? What liberty can there be for the subject who is liable at any moment to be conscripted, separated from his dependent family, and subjected to the labors, privations, sickness and death incident to campaign service? How much less would war have ravaged the world had the deliberate consent of the people been always necessary before declaring it!

234. These evils, so palpable, so grievous, are utterly

234. Are the evils of war tolerable to freemen? Only in what case? Have the United States been reluctant to engage even in defensive wars? How was it before the Revolutionary war? How before the war of 1812? What was the effect of the long delay in declaring those wars? Have the United States ever engaged in offensive war? What is the normal condition of American Society? Why?

intolerable to freemen, **except they be forced upon them in self-defense.** Then, indeed, **when a power uncontrolable by the civil law threatens the peace, the integrity, the honor of the nation, or the lives and liberties of the citizens, war becomes the only alternative to a permanent submission to tyranny and outrage.** But so reluctant have the United States always been to engage in it, even in self-defense, that the colonies patiently endured British misrule and oppression for ten years, from 1764 till 1774, before they commenced the Revolutionary war. And the same patient endurance was shown towards France during Washington's administration as President, and towards England for more than six years (during which she captured nine hundred American vessels) before the war of 1812.* The effect of these long delays, incurred while seeking to avert war by negotiation, was that Congress was supported in its action by the public opinion of the country, and hence both those wars were successful. **But the United States have never yet waged an offensive war. So long as our institutions are preserved in their purity they never will. Peace is the normal condition of American society, for in peace only can our citizens individually enjoy life, liberty and happiness.** In this, civilized society is like a forest; the storms which break and uproot the trees, the fire which devours every green thing from off the face of the earth, are destructive of all growth, perfection, usefulness and beauty.

235. *Not only are armies, especially standing armies,*

*Swinton's Condensed History of the United States.

235. Repeat the second of the three principles? What lesson do we learn from the treason of Julius Cæsar, and the rule of the army of the Roman Empire?

dangerous to the liberties of the people, as has been and yet is constantly proved by history, but the habits of camp life are fatal to the personal independence of the soldiery, thus in time unfitting them to be freemen.

Julius Cæsar was for many years a successful Roman general in ancient Gaul. Being a man of genius, learned, eloquent, an excellent soldier and ambitious, he formed the design of making himself master of his country by means of the army, whose affections he had won from their nation to himself. He accordingly marched upon Rome, whose people, expecting anything but treason from their favorite general, were wholly unprepared to oppose him. He seized the city, overthrew its free institutions, and made himself absolute ruler.

236. After Cæsar succeeded many emperors, nearly all of whom were like him selected, supported (and some of them were dethroned) by the army, without any regard to the will of the people. Decay and corruption now sapped the life of the once powerful mistress of the world The soldiers, always reeking with crime and debauchery, gave laws to the Empire. The Senate was corrupted, public spirit disappeared; tyranny, plunder, civil war, substituted chaos for the once boasted order of the Roman State. For several centuries things went from bad to worse, until the feeble remnant of the greatest people of ancient times was swept into oblivion by the barbarian hordes of Alaric and Attila.

237. The history of modern Europe has repeated the lesson learned from Rome, in a hundred instances; yet to this day, standing armies are everywhere the bulwarks

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236. What produced the downfall of that Empire?

237. Do we learn the same lesson from the history of modern Europe? How many men are there in the present standing armies of Europe? What effect do these armies exert on European peace and liberty?

of thrones. Between three and four millions of men are kept constantly under arms in Europe. Men are taken from productive industries; for the most part prevented from marrying or forming domestic ties; maintained at enormous expense upon taxes wrung from the remainder of the people; and all this merely to enable the monarch to crush the liberties of his own subjects, or attack those of neighboring nations.

238. *But we stated that the habits of camp life are fatal to the personal independence of the soldiery, thus in time unfitting them to be freemen.*

The government of an army is essentially a despotism. One mind only must rule the host, and this can be done only by the stratification of the entire mass, so that each rank shall receive orders from above, and transmit them below. **But the rank and file have always to obey.** To hesitate is to incur prompt punishment; to disobey is death. **No individual thought, no public opinion, no freedom of speech, of the press, of communication, can be allowed in an army.** Having no home, the soldier knows no social or domestic obligation. Having no trade, he loses all interest in the business of the country. **And thus, unaccustomed to freedom, to the rights and duties of citizenship, he presently loses his love of liberty, and power to be free.** He becomes a mere machine in the hands of his superiors, and learns to rely on others for his every motive. Soldiers sometimes almost worship their generals, while they are lost if left to themselves. Indeed, one of the elements of success in the character of a great

238. Of what nature is the government of an army? How is this kind of government effected? What have the rank and file to do with it? Has a soldier the same rights as free citizens? Has he the same social and business connections as free citizens have? What is sometimes the soldier's feeling toward his commander? What sometimes results from this feeling?

general is the art of attaching his soldiers to his person. **The men who have often been led to victory by the same leader, learn to look upon him as the sun in the heavens. He is all there is to them of government, wisdom, forethought and power.** What wonder that they will follow such a man through fire and flood, fighting for his interest as for their own, caring little about those abstract qualities, patriotism and justice, in the excitement of pushing the fortunes of their darling commander!

239. The soldiers of standing armies thus become fit only to be the tools of the tyrant, and the dupes of the demagogue. **Not only may such armies be turned, like those of Cæsar, against the liberty of the State, but the degradation of camp life destroys the independence of character without which freedom cannot exist.** As the disbandment of an army after a war is always marked by an increase of crime among the people, so the intermingling of soldiers with citizens tends only to public demoralization.

NOTES.—(a) In 1718, King Frederick William of Prussia, father of Frederick the Great of that nation, in letters instructing the tutors of his son as to the kind of education they were to give the Prince, uses the following language:

"With his increasing years, you will more and more, to a most especial degree, go upon fortification, the formation of a camp, and the other war sciences, that the prince may, from youth upwards, be trained to act as officer and general, and *to seek all his glory in the soldier profession.* This is whither it (his education) must all tend. You must, both of you, in the highest measure, make it your care to infuse into my son a true love for the soldier business, *and to impress upon him that as there is nothing in the world which can bring a Prince renown and honor like the sword, so he would be a despised*

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239. What do soldiers of standing armies become fit for? In what two ways do standing armies endanger liberty?

creature before all men if he did not love it, and seek his sole glory therein."—Carlyle's Frederick the Great, Vol. I, page 357.

The armies of Europe on a war footing aggregate 3,810,766 men, in about the following proportions:

England	200,000
Germany	824,900
Austria	733,926
Italy	415,200
France	456,740
Russia	800,000
Spain	80,000
Turkey	300,000
	3,810,766

These are supplied with 10,244 cannon, and 512,350 horses. Moreover, the military system of Russia, Germany and France is such, that the number of trained soldiers in the various reserves, scattered through the country, can be doubled in a very brief time. In Germany every young man owes the State three years of service in the army, and after his discharge he is liable at any time in case of war to be summoned to the field. The result of these military organizations is a more formidable fighting power than the world has ever before seen; but the possession of such power leads to its frequent use. Hardly a decade rolls by, that does not witness a European war. The American gratifies his love for this kind of excitement in the battle of ballots. But in Europe, where this harmless species of fighting is unknown, political events are still decided only by bullets.

(b) Louis Napoleon, late Emperor of the French, was a great admirer of Julius Cæsar, whose treatment of his country he imitated. In 1852 he gave eagles to serve as standards to the French army, at a grand military review at Chalons. On this occasion, which he named the "festival of the eagles," he addressed the army as follows:

"Soldiers, the history of nations is in great part the history of armies. *On their success, or on their reverses, depends the fate of civilization and of the country.* When they are vanquished, there is either invasion or anarchy; when victorious, glory and order. In consequence, nations, like armies, pay a religious veneration to the

emblems of military honor, which sum up in themselves a whole past existence of struggles and of triumphs," etc.

If civilization in this nineteenth century depends on the success of armies, it would have been interesting to inquire of Louis Napoleon, in exile, whether he deemed French civilization to be inferior to the German, because the latter were victors in the war of 1871? To such absurd sophisms are the minds of those monarchs driven, who seek to retard civilization by their adherence to the tyrannical principles of the dark ages!

LESSON XXI.

OF THE SUBORDINATION OF THE MILITARY TO THE CIVIL POWER, NO. II.

240. The third proposition in our last lesson was: "*That as the moral strength of the nation lies in the aggregation of individual opinions, thus forming public opinion, or the public mind, so the physical force of the nation resides in the arms of the people which constitute the public body. As the mind of a man rules his body, so the public mind should rule the public body.*

We have seen that the civil power in the United States exists only by virtue of public opinion, as expressed in laws framed by the agents of the people.* We have also seen how the numerous and complex institutions of government all move harmoniously, each in its own orbit, bound together by the common object, "the greatest good to the greatest number," as the planets are by the universal bond of gravitation,† and we have seen that peace is the normal condition of the American people.

*See Sec. 122. †See Sec. 95.

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240. Repeat the third of the three propositions?

241. *Now would not all this beautiful system and order be thrown into confusion if the army were allowed the smallest influence in shaping the political course of the country?* Would not the soldiers interfere at elections, compelling citizens, as in France, to vote to please their commanders? Would not a popular general be able to elect himself Emperor, to override and abolish the Constitution, and thus to destroy liberty in the interest of his own despotism? **The history of both Napoleons shows how easily this may be done.**

242. To forestall such perils **we treat the army as "a good servant, but a bad master."** We have invented a system whereby, when the defense of the nation requires it, an immense army can be produced at short notice. But when the emergency is over, the soldiers are at once returned to their homes and private occupations.

243 *What then are the peculiarities of the American military system?*

A. **A small regular army, sufficient merely to garrison the forts, protect the military property of the nation, and keep the Indians in check, is always maintained.** But the term of enlistment is limited to five years.

B. **The Federal Government has established a large military academy at West Point,** where a moderate number of young men, drawn from the several States in proportion to their representation in Congress,

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241. Would not the system and order of American institutions be destroyed if the army were allowed any power in politics? What dangers would result from it?

242. How do Americans treat their army? Have we a military system of our own?

243. State the peculiarities of the American military system?

A. What about the regular army? Its terms of enlistment?

B. The military academy? Its object?

are educated in the science of war. This institution is relied on to furnish commanders for the national troops in case of war.

C. **Every individual throughout the nation has the constitutional right to keep and bear arms.** This accustoms the people to their use. (This right is not allowed by governments that are afraid of the people.)

D. **The Federal Government constantly manufactures and keeps on hand immense quantities of cannon, small arms and military stores,** which are kept in its various arsenals throughout the Union.

E. **Each State has its own militia system, under which volunteer companies and regiments are formed from among the citizens.** The officers of these troops are appointed by the Governor, who is the State Commander-in-chief. These troops are not paid except when in actual service. But they are drilled often enough to discipline them, without taking them away from their families or business for that purpose.

F. Should any riot or insurrection occur too strong to be put down by the Sheriff of the county where it happens, the Sheriff, who is a civil officer, applies to the Governor for aid. The Governor, also a civil officer, being first satisfied that the necessity exists, orders out the State troops. If the available power of these troops be insufficient to enforce the law, he calls upon the President of the United States for assistance. The President, another civil officer, thereupon orders the regular army to the scene of disturbance. If this be not

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C. The citizen's right to keep and bear arms?

D. The Government supplies of army and military stores?

E. The militia system of the States?

F. Describe the manner in which military force is called into action in case of insurrection or invasion?

strong enough, he calls out the militia of all the States. If the organized militia of all the States be insufficient, he will call for volunteers; a certain number, proportioned to the population, being summoned from each State. These are paid and armed by the Federal Government, and commanded by Federal Generals, though the State Governor appoints all officers below the rank of Colonel. If a sufficient number of men will not **volunteer**, that is, offer voluntarily to serve for the "bounty" and pay tendered by the Government, then the President orders a "**draft**," which **compels** the service of those citizens drawn by lot, unless they furnish a substitute. In these ways an army can always be obtained. The Government had an army of over 1,000,000 men in the field at the close of the rebellion of 1861.

G. **The army never votes as a body.** But the soldiers, who are citizens of the several States, vote while in camp at such elections as are held in their own States. These votes are counted at their homes, as if they were personally present.

H. **No enlistment of volunteers is permitted for a longer term than three years, or for the War**, so that the soldiers shall not have time to forget their independence as freemen, or to become too strongly attached to their leaders.

I. **The commanding officers receive their orders from the Civil Government**, by whom they are held to a strict accountability through martial law.

J. **In case of invasion, the mode of procedure**

G. Does the army vote as a body? How do soldiers vote?

H. For how long are volunteers enlisted? Why is the term limited?

I. From whom do the commanding officers receive their orders?

K. Has any State the authority to declare war? Or keep a standing army or navy?

would be the same as in case of insurrection, except that the first movements of defense would originate with a State Governor or the President.

K. **No State has any authority to declare war, to keep a standing army in time of peace, or to keep ships of war without consent of Congress.**

244. By these means the military is rendered capable of sufficient power and service to protect the nation **in all cases of defensive war. We want no army and navy for any other purpose. We seek not to attack or oppress our neighbors**, and we have no neighbors, at least on our continent, strong enough to be at all likely to attack us. **In all events the military is in strict subordination to the law of the land.** Our military system is a new thing in history; but that it is equal to any in the world for the protection of liberty and honor, is proven by the fact that **we have been victors in all our wars, whether foreign or domestic.** And our armies always will be victorious so long as we fight **only in self-defense.** The reason of this is, that **defensive war is always just.** It is in such wars that the sacrifices of patriotism, courage, energy and devotion are sure to be offered by every citizen upon the altar of his country. And when a great nation is thus excited to act all together, no power on earth can resist it.

"Thrice is he armed who hath his quarrel just."

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244. Are these means sufficient for the requirements of the nation in case of *defensive* war? Have we need of an army for *aggressive* wars? Do the United States seek to attack or oppress other nations? Is the military always kept subordinate to civil power? Have the United States always prospered in war? How long only will they continue to be victorious? Why?

LESSON XXII.

OF THE FOREIGN POLICY OF THE UNITED STATES.

245. *In what respects has America shown more justice and magnanimity in her treatment of foreign nations, than any other country?*

We have seen in Section 32, that "political liberty is the freedom to every individual to do as he pleases, so long as he does no evil to any one else." Freemen taught in this principle cannot divest themselves of the idea that **nations as well as individuals have a natural right to do as they please, so long as they do not molest other nations.** In her recognition of the rights of other nations, America can safely claim a loftier place in Christian civilization than has ever been attained by any other nation.

246. We have in foregoing lessons alluded to the maxim "**Might makes Right,**" as practiced for ages by monarchical governments. **We have seen that European history is but the narrative of never-ending struggles among monarchs to rob each other of their dominions.** We have not space in this little work for more than brief allusion to these facts of universal history. But we urge you to repair a great neglect of the present generation of Americans by **cultivating the study of history.** By this course only can you learn to appreciate the institutions of your country; in contrasting their freedom, their beneficence, their tender

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245. To what international principle does the idea of political liberty lead? Does America claim a higher grade of Christian civilization in her treatment of foreign powers, than any other nation?

246. What was and is the monarchical principle in dealing with weaker Governments? What is European history a narrative of? Is history a necessary study in learning the value of American ideas? Why?

care of human happiness and of justice, with the abominable system of canonized crime, out of which, like the flower bed out of the manure heap, our principles of Government have been developed.

247. By the study of history you will learn that from the earliest ages the only recognized mode of aggrandizing a nation was by the conquest of its neighbors. Sesostris of Egypt, the earliest conqueror of whom we have any record, began the long story of aggressive wars. He was followed by Cyrus and Darius of Persia, Alexander of Macedon, by the republic and empire of Rome, by Carthage. Then come the names of Alaric, Attila, the Caliphs of the East, Charlemagne, Tamerlane, Genghis Khan, William the Conqueror, Charles V of Germany, Ferdinand and Isabella of Spain, Louis XIV of France, Charles XII of Sweden, Frederick the Great of Prussia, Marlborough, Napoleon I, besides hosts of lesser names. All of these won their fame by the conquests of other nations, whose territories they added to their own or their sovereign's dominions. **But who among them all ever realized that the conquered had any rights beyond those mentioned in the laws of war, which the victors were bound to respect?** Which of them ever dreamed of consulting the wishes of the people of a conquered province in the matter of their Government, or of paying for the lands annexed? Which of them ever thought, while dethroning vanquished kings, dispossessing people of their property, carrying them off into captivity or slavery, or

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247. What has been the recognized mode of aggrandizing European nations? Who was the earliest conqueror? Name some of the principal conquerors in the old world? Did any of those conquerors accord any rights to the conquered beyond those mentioned in the laws of war? Did they think or know of any mode of gaining territory except by force?

or at best compelling them to pay tribute, as the alternative of worse suffering, **that there was any law, higher than mere brute power, which entitled the defeated party to any mitigation of their fate?**

248. *You will also observe in reading history that all these belligerent nations regarded each other merely as enemies or allies, with respect to present or future wars; so that diplomacy was useful mainly to arrange alliances for the next invasion.* Thus nearly all European wars have involved several nations, some of which had no quarrel of their own, but took sides in the fight either for the sake of their share of plunder, or to prevent some nation from becoming stronger than the rest.

249. Even the original settlers of our country brought these barbarous notions with them. They thought nothing of robbing the native Indians of their lands, or of forming alliances with some tribes for the sake of exterminating others. Few of them except Penn and his colony of Quakers considered that the Indians should be paid for their patrimony. And in the old French war of 1754, the New Englanders did their best to assist the British in driving the French out of Canada, and conquering that province for old England. But when American independence had been won, and the Federal Constitution adopted; when the great Washington had uttered his farewell address to his countrymen, full of wise and beneficent counsels as to their

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248. How did those belligerent nations regard each other? What was the principal use of diplomacy? Did European wars generally involve more than two nations?

249. Did the early American settlers bring over the European ideas on these subjects? How did they acquire the lands of the Indians? How did William Penn acquire his lands from the natives? Did New England assist in the conquest of Canada from the French? When and how did the present American idea originate?

intercourse with foreign nations; **a purely American system of foreign policy was adopted.**

250. This system is expressed in the phrase: **"Peace and friendship with all nations, but entangling alliances with none."** America makes no aggressive war. She accords to all nations all their rights; seeks commercial intercourse with all; claims respect and immunity for herself and her citizens from all; but abstains from political connections with any of them. Out of these general ideas has grown that of purchasing from foreign nations such territory as we require for our own purposes. **In pursuance of this idea we have increased our area to more than eight times that occupied by the original thirteen States; and this we have done without depriving any nation of its just rights, without engaging in the quarrels of other nations; or prosecuting any war merely to gratify the thirst for robbery and spoliation.**

251. These acquisitions have been as follows: In 1803, we purchased from France all the territory between the Mississippi River and the Pacific Ocean—all of which was then called Louisiana. For this we paid $15,000,000; and by this purchase we avoided a war with Napoleon I. **This was the first instance in the world's history in which purchase instead of conquest**

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250. What phrase expresses the foreign policy of the United States? What are the peculiarities of this policy? What idea has grown out of these general principles? How do we acquire foreign territory? How much land have we thus acquired? Have these acquisitions been attended by any injustice to other nations? Have we engaged in the quarrels of other nations; or prosecuted any war for the purposes of robbery or spoliation?

251. Relate the particulars of our purchase of Louisiana. Florida. Annexation of Texas. Relate the history of the purchase of California, Nevada, Utah, New Mexico and Colorado. Of the Mesilla Valley and Arizona. Of Alaska.

was resorted to, for the purpose of adding to the territory of a strong and ambitious nation.*

In 1818, we purchased Florida from Spain, for $5,000,000, again avoiding a war through negotiation.†

In 1845, Texas was annexed at the request of her Government; the United States assuming her debt of $10,000,000. This brought on a war with Mexico (which caused the American troops sent to occupy the western part of Texas to be attacked); resulting in the defeat of the Mexicans, and occupation of their country by our armies. But this war was closed in 1848, by a treaty whereby Mexico sold to the United States all her claim to the disputed part of Texas; also the territory now included in California and in Nevada, Utah, New Mexico and Colorado Territories. For this the United States paid to Mexico $15,000,000, and assumed the payment of American claims against her to the amount of $3,000,000 more. To all the inhabitants of the purchased regions were guaranteed their liberty and property, the right of self-government, and citizenship if they desired it.‡ **This is the first case recorded in history in which a conquest was followed by the payment to the vanquished of the full value of the lands taken by the victor.**

In 1854, we purchased from Mexico the Mesilla Valley and Arizona Territory, for which we paid $10,000,000.

In 1868, we purchased from Russia the territory of Alaska, for which we paid $7,000,000.

252. We have also settled questions of disputed boundaries, and other subjects of contention, with Great

*Spencer's History of the United States, Div. V, page 37, et seq.
†Ib., Div. VI, 322.
‡See the treaty of Guadalupe Hidalgo.

252. What settlements avoiding war have been made with Great Britain?

Britain on several occasions, each time removing causes of irritation that in Europe would surely have resulted in war.

Thus in 1842, the northeastern boundary of Maine, and vexatious difficulties about the fisheries, were amicably settled by Daniel Webster and Lord Ashburton, who were appointed commissioners by the respective Governments for that purpose.*

In 1846, we made a similar settlement with Great Britain, of the northwestern boundaries of the United States, whereby we acquired a quiet title to Oregon and Washington Territories, by giving up our own claim to the lands lying north of latitude 49°.

And in 1871, a dispute growing out of this last treaty concerning the ownership of San Juan Island, was referred to the Emperor of Germany for arbitration, and by him decided in favor of the United States.

253. The same principles have always regulated our dealings with the Indians. Notwithstanding the barbarism and cruel treacheries of these savages, and their weakness compared with our power, our Government has always refused to deprive them of their lands without payment. Hence the expenditure of several millions of dollars annually in the administration of Indian affairs, and the making of a separate treaty, purchasing the lands of every tribe before sending the Government surveyors to lay them out in farms for sale to settlers.

254. *You see, in this brief sketch of the foreign policy of the United States, how carefully the nation has followed the sage counsels of the Father of our Country.* Said

*See Ashburton Treaty, U. S. Statutes.

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253. What principles have marked our treatment of the Indians?

254. Give the substance of the extract from Washington's Farewell Address.

Washington, in his Farewell Address: "Observe good faith and justice toward all nations. Cultivate peace and harmony toward all. **Religion and morality enjoin this conduct**: and can it be that good policy does not equally enjoin it? **It will be worthy of a free, enlightened and at no distant period a great nation, to give to mankind the magnanimous and too novel example of a people always guided by an exalted justice and benevolence.** Who can doubt that in the course of time and things the fruits of such a plan would richly repay any temporary advantages which might be lost by a steady adherence to it? Can it be that Providence has not connected the permanent felicity of a nation with its virtue? The experiment, at least, is recommended by every sentiment which ennobles human nature. Alas, it is rendered impossible by its vices."

255. Finally, though there is no international law which protects weak nations from robbery and extortion by the stronger, **the United States in this matter are a law unto themselves.** With us, the rule to "do unto others as we would they should do unto us," is a sufficient protection to the rights of other nations at our hands. **To have been the first people to apply the Golden Rule to national conduct, is a higher glory than if a conquered world were bleeding at our feet.**

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255. Is there any international law which protects weak nations from stronger ones? What law governs the United States in this particular? What great glory have we acquired from our treatment of weak nations?

LESSON XXIII.

OF THE AMERICAN IDEA OF ARISTOCRACY, NO. I.

256. *What clauses of the Federal Constitution forbid the existence of orders of nobility or the conferring of titles in the United States?*

Section 9 of Article I reads: "No title of nobility shall be granted by the United States, and no person holding any office of profit or trust under them shall, without the consent of Congress, accept of any present, emolument, office or title of any kind whatsoever from any king, prince or foreign State."

Section 10 of the same Article reads: "No State shall grant any title of nobility." Several State Constitutions contain similar prohibitions.

257. In Lesson III we learned the difference between the doctrine of the divine right of Kings and the idea of popular government. In the former we saw that the nobles derived their power and estates from the King,* in return for which they supported the throne by helping to keep down the people: whose natural rights were impaired to the extent of the exclusive privileges monopolized by the nobles. In Lesson I we showed you that liberty cannot exist except among equals. **The Fathers of the Republic were therefore extremely jealous lest any title of nobility should be acquired by Americans.** Hence the prohibition in the Constitution, both to the Federal and State Governments, ever

* "All degrees of nobility and honor are derived from the king as their fountain." Blackstone's Com., XII, "Of the Civil State."

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256. Repeat the Constitutional prohibitions of orders of nobility?

257. Were the early Americans jealous lest titles of nobility should be created? Why? On what condition can a foreign nobleman become an American citizen?

to grant a title of nobility. Hence the forbidding of any Government officer to receive such title from any king, prince or foreign State. Hence no foreign nobleman is allowed to become a naturalized citizen of the United States, unless he abjures his title of nobility.*

258. The American fathers believed only in Nature's noblemen—that "an honest man is the noblest work of God." And the system they framed has now for a century developed the nobility of nature in tens of thousands of minds, which but for liberty and popular education would only have illustrated those lines of Gray:

"Full many a flower is born to blush unseen,
And waste its sweetness on the desert air;
Full many a gem, of purest ray serene,
The dark unfathomed caves of ocean bear."†

259. The American idea of aristocracy is beautifully expressed by Robert Burns, in his song entitled:

"A MAN'S A MAN FOR ALL THAT."‡

Is there, for honest poverty
That hangs his head, and all that?
The coward slave, we pass him by,
We dare be poor for all that?
For all that, for all that,
Our toil's obscure, and all that;
The rank is but the guinea's stamp,
The man's the gold for all that.

What though on homely fare we dine,
Wear humble gray, and all that;

* See Act of 1795.

† Gray's Elegy in a Country Church-yard.

‡ I have taken the liberty to make this poem intelligible to American youth by substituting English for some of its Scottish words.

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258. In what kind of nobility did the American fathers believe? What has resulted from the system they framed?

259. Repeat the song quoted from Robert Burns?

Give *fools* their silks, and *knaves* their wine,
A man's a man for all that;
For all that, and all that,
Their *tinsel show*, and all that,
The honest man, though ne'er so poor,
Is king of men for all that.

You see yon ninny called a Lord,
Who struts, and stares, and all that,
Though hundreds worship at his word,
He's but a fool for all that;
For all that, and all that,
His ribbon, star, and all that,
The man of independent mind
He looks and laughs at all that.

A king may make a belted knight,
A marquis, duke, and all that,
But an honest man's above his might—
Good faith! he must not try that;
For all that, for all that,
Their dignities, and all that,
The pith of sense, the pride of worth
Are higher ranks, for all that.

Then let us pray, that come it may,
As come it will, for all that,
That sense and worth, o'er all the earth,
May take the prize, and all that;
For all that, for all that,
It's coming yet, for all that,
That man to man, the world o'er,
Shall brothers be, for all that.

260. *Is it not unjust, as well as absurd, that one class of men should claim the right to lord it over others? How could such a system have originated?*

The freedom which everybody in America enjoys is a new thing. One hundred years ago it

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260. Is American freedom a new thing? Where else does it exist? Are you a descendant of slaves? Describe the condition of the lower classes in England three hundred years ago? How did many of the present family names originate?

was only beginning to exist. You will not therefore be startled when told that **you, and probably all your acquaintance, are the descendants of slaves!** Under the Feudal system in Europe, as you learned from Chapter II of the Introduction, the lands all belonged to the lords by grants from the King. The lower classes of the people were attached to the lands, and were deemed a part of the property, just as were the slaves on the southern plantations before our civil war of 1861. We know men whose family names are Smith, Miller, Farmer, Shepard, Carpenter, Weaver, Moulder, and so on. But Mr. Miller's ancestor was not called *Mr.* Miller; he was called Jack the Miller, the bond slave of the lord on whose land he was born. He and his mill, his wife and children, all belonged to his lord. Robert the smith did his lord's smithing. Billy the carpenter made his lord's wood work. Jimmy the shafter made his lord's arrows, and Hugh the farmer plowed and sowed, and reaped and garnered for his lord. Less than three hundred years ago, Queen Elizabeth had no less than three thousand of these serfs or slaves on the crown lands of England.

261. *How was this class emancipated?*

It was never done by positive law, but it came about slowly and gradually by custom. Some wise lord called Jack the plowman, and said: "Jack, give me a hundred bushels of wheat a year, and what you make over that you may keep for yourself." He called Hugh the miller, and said: "Hugh, give me fifty sacks of flour a year, and you may run the mill for yourself," and so on. Thus the personal service of the serf was turned into rent, and these slaves were permitted to own the wages they

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261. How were the English serfs emancipated? What was the origin of rent? What powers did the lords exercise over the serfs?

earned beyond their rent. But they did not yet own themselves. They, their wives and children, still belonged to their lord. He still could force them to work upon his highways without wages; compel them to join him in the chase; lead them out to war; or force them to beat the ponds all night long to keep the frogs from croaking, so that he might sleep.

262. But some of these serfs who thus paid rent were idle and thriftless, and by and by there appeared other serfs, more industrious and intelligent, who offered to take their lands and pay a higher rent. The lord availed himself of this competition in rents, and thus the lazy serfs were torn up by the roots from the soil in which they had vegetated; were forced to move off and take care of themselves, and became free without intending it. Hugh the miller thus became Mr. Miller; Billy the carpenter, Mr. Carpenter; and Jack the smith became John Smith Esq.

THE LOWER CLASSES STILL DEGRADED.

263. In England the suffrage is regarded as a **privilege or boon** which the Government condescends to grant to a **favored portion** of the people—**not as a right inherent in all men by the law of nature,** by virtue of which right alone Government has any existence. But though no longer slaves, this new class of freemen did not rise in the political or social scale. There was no common school system in England to destroy the differences between men born of high or low

262. How came the serfs free? Did they seek to be free? Was their freedom the result of law?

263. Did the freedmen rise in the social scale? Have men the right of suffrage in England, *as mere men?* What is the qualification of voters there? What is the difference between the English and American views of the right of suffrage? What language does Shakspeare use in speaking of the laboring classes? What is now the comparative standing of the laboring classes in all European countries?

degree. They have no suffrage in England now, as mere men, for they cannot vote without some property qualifications. The common people were regarded as a clownish and degraded class. Even Shakspeare, whose father could not write, and who could probably trace back his own lineage to some *spear-shaking* slave, puts into the mouths of his upper classes such phrases as, "Mechanic slaves with greasy aprons;" "Mechanical and dirty hand;" "Base dunghill villain, and mechanical;" "Hard hands of peasants;" "Worthless peasants;" "Base lacquey peasant;" "Rogue and peasant." And so slow has been the progress of our emancipated ancestors, that less than a century ago, waiters at the English taverns used to wash the money which they gave back in change to the gentry, dry it with a clean towel, and then present it on a silver salver! In England, and, indeed, over all continental Europe, the laboring and mechanical classes are despised by the "ladies" and "gentlemen" of the upper circles, and occupy a position of inferiority, from which it is almost impossible for them to emerge, otherwise than by emigrating to America.*

264. *How fared it with the nobility all this time?*

How fares it yet with them in nearly every European country? Possessing privileges granted to them or their ancestors by the King, they own the land on which all others are rent-paying tenants. Rolling in enormous wealth, the proceeds of their rents, they lack nothing that money can buy. Education in its highest sense, architecture and other fine arts, social eminence, political influence, seats in the House of Lords of which only death or treason can deprive them—these are but a few

*The last three pages are altered from a speech delivered by Hon. J. W. Dwinelle, at San Francisco, August 27th, 1871.

264. How fares it with the nobility? What legal privileges has an English lord?

of their privileges. In England, a peer of the realm cannot be arrested in civil cases. Sitting in judgment, he gives not his verdict upon oath, like an ordinary juryman, *but upon his honor!* He answers also to bills in chancery upon his honor, and not upon oath. It is much more penal to spread false reports of the nobles than of other men; scandal against them being called by the peculiar name of *scandalum magnatum*, and subjected to peculiar punishments by divers ancient statutes.*

265. The nobles attend upon the King's person. They are always members of his ministry, high in command in the Army and Navy, preferred by the King for Foreign Ministers and as Governors for colonies. They have the right to appoint priests in the State Church to their livings. And when assembled in the House of Lords, no measure can become a law until it has received their approval. The House of Lords constitutes the highest court of appeal known to the English law. The nobles alone have the right to hunt in the King's forests, and to reserve large tracts for game parks, though the lands thus wasted be needed to raise food for human beings.

266. You now see how the modern system of European nobility originated, and how its operation tends to divide society into classes. You can also form some idea as to its injury to the rights of the people, its utter inconsistency with the American doctrine of equality, and its consequent injustice to the great mass of mankind. Of the absurdity and falsehood of the pretensions of aristocrats we shall treat in the next lesson.

* Blackstone's Com., § 402.

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265. What is the position of the nobles in the English Government?

266. Are orders of nobility injurious to the people? Are they consistent with equality?

LESSON XXIV.

OF THE AMERICAN IDEA OF ARISTOCRACY, NO. II.

267. The question remaining for discussion at the close of the last lesson was:

Is it not absurd that one class of men should claim the right to lord it over others?

The modern European idea of exclusive privileges conferred upon the ruling class originated far back in the early history of mankind; and as a part of a consistent whole, though erroneous and oppressive, it was originally not absurd. But when we come to consider the pretensions of the descendants of those ancient nobles, and especially of the subordinate stratifications of society under monarchical rule, there is much which the American must either laugh at or despise.

ANCESTRAL ARISTOCRACY.

268. The highest pretensions of nearly all modern European aristocrats depend upon the so-called "purity of their blood." **That is, all they are, and all they have, they owe to the talents, the good fortune or position of their fathers.** In England there are officers called heralds, whose business it is to trace the genealogies of those who boast of having "blue blood" in their veins, and to establish by their researches what "coats of arms"* such persons are authorized to assume.

*A species of inherited man-mark, highly valued by men incapable of earning any other distinction.

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267. Was the idea of conferring special privileges on the ruling class absurd, under the feudal system? How is it in reference to the pretensions of the descendants of the old nobles?

268. Upon what do the claims of modern aristocrats generally depend? What are heralds? For what purposes are they employed? When is an European regarded as of better blood than others? What tendency runs through European society on this subject?

If, by the aid of these heralds, one can prove himself descended from some great person long since dead, European opinion deems him of better or purer blood than others not so fortunate. And this tendency to honor men **for what their ancestors were, regardless of what they are themselves,** runs all through monarchical society. Yet look at it for a moment.

ITS FALLACY.

269. Every human being has two parents, four grandparents, eight great-grand-parents, sixteen ancestors of the fourth generation, thirty-two of the fifth, and so on. By the time he has gone back to the fifteenth generation, or 500 years, he finds he had no less than 32,768 ancestors, of that date. Now if **one** ancestor out of 32,768 was noble, what do the heralds know of the remaining 32,767? Even if they prove much intermarriage among them—though fifty, or an hundred, or five hundred of them were noble—is it not self-evident that however clearly one may trace a **few drops** of his blood, the **great bulk** of it must be derived from a multitude of people, of whom he can know nothing except that they must have included **all** conditions and characters of men?

ABSURDITY OF FAMILY PRIDE.

270. This notion of respecting a man on account of the circumstances, property or title of his fathers, in-

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269. How many ancestors of the 15th generation does every person have? How much of any man's blood can be "noble" in this point of view?

270. How do Americans regard the claims of those persons to respect who have only their inherited honors or property to boast of? How with those descended from great intellects? What is the matrimonial law of attraction? How does this affect children? What would be the result on society if this law did not exist? Do the sons of great men usually degenerate? Does nature create hereditary aristocracies of talent? Do we observe such a phenomenon in our own country? What was the reply of Marius to the taunt about his low birth?

stead of estimating him by his personal qualities, is contemptible enough in the eyes of all right-minded Americans. But when it comes to be applied to those who consider themselves aristocrats by reason of the intellectual superiority of their ancestors, its absurdity becomes evident. **The law of nature in matrimonial attachments causes opposites to attract each other.** An intellectual man or woman generally marries a person who is mentally his or her inferior. Their children taking after both parents, to a greater or less degree, are therefore necessarily inferior to the better of them. If this were otherwise, aristocracy would be intensified by nature, through successive generations of great minds.

But so far is this from being the case, that it has passed into a proverb that "**the sons of great men usually degenerate.**" The few cases to the contrary that have occurred in history are the exceptions that prove this rule. **Nature creates no hereditary aristocracy of talent.** The greatest of men, such as Alexander, Aristotle, Socrates, Hannibal, Cæsar and Washington, left no children. In our own country, the descendants of Franklin, Jefferson, Jay, Marshall, Hamilton, Jackson, Webster and Clay, have none of them exhibited the talents of their immortal progenitors. The great men of America are in fact like Marius of Rome, who, being taunted with the remark that "he was the son of a nobody," retorted, "**I would rather be the first of my race than the last of yours.**"

From these considerations we see how absurd is the notion that the longer the process of diluting the blood of a great man goes on, the purer that blood becomes. As well tell us that the farther one goes from a fire, the greater are its light and heat!

THE AMERICAN IDEA.

271. Now the American idea of aristocracy is drawn solely from Nature and Revelation. We say, let all men be equal so far as **human laws only** are concerned; **equal in rights, as they are in breathing the air or seeing the sun.** But in respect to the infinite varieties of talent and character bestowed at each man's birth by his Maker, **the law must not repress, but protect the development of the individual.** No two persons are created exactly alike. Some have gifts of eloquence, poetry, or fine art. Some are inventors; some authors; some excel as soldiers, sailors, mathematicians, mechanics, or financiers. **Now the American law protects each in his possession of all that he can himself gain by the exercise of his peculiar talent, so long as he does not trespass upon the rights of other people.** Reputation is defended against slander and libel. The author is protected by the copyright laws; the inventor by the patent laws. The acquisitions of all are secured by the thousand provisions of the civil law. **And thus during the lives of successful persons, they enjoy the benefits of a sort of aristocracy.** Thus we have the aristocracy of talent; the aristocracy of learning; the aristocracy of wealth. The mass of mankind naturally honors successful men in every calling, and successful men will naturally reverence and assist each other. **But this kind of aristocracy is natural, and is consequent upon a free state of society.** Freedom would be destroyed were the law to interfere with it.

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271. From whence is the American idea of aristocracy derived? Do we create inequalities by law? Does nature create them? How does our law treat natural inequalities? How does it protect natural talents and acquisitions? What aristocracy results from this protection? Is this a natural aristocracy? Can free laws interfere with it?

AMERICAN ARISTOCRACY NOT HEREDITARY.

272. **America enacts no such laws as the English contrivances of primogeniture and entail,** whereby property is handed down from generation to generation, in the line of the oldest son only. The rich American, dying without a will, leaves his property to all his children, male and female, share and share alike. And each, being free to do what he pleases with his share, generally soon experiences the truth of the proverb, that "riches certainly make themselves wings; they fly away as an eagle toward heaven."* Even if this do not happen, a large fortune, divided into several portions, becomes distributed among several persons. The soldier, the author, the statesman, cannot receive a title from majesty, to be handed down to his oldest son after him. The son of the soldier must win his own epaulettes. The son of the statesman must make his own speeches. The son of the author must write his own books. No man can profit by his father's reputation, save to the extent of the presumption it creates in favor of his education, whilst the chances are, that in making a name for himself he will be completely outstripped by the son of some blacksmith, cobbler or hod-carrier, who never dreamed of being father to a senator or a genius. **Thus the personnel of American aristocracy changes so constantly that it is too transient ever to endanger the liberties of the people.**

* Prov. xxiii: 5.

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272. Have we any laws of primogeniture and entail? What are these laws? What is their result upon society? What becomes of the rich man's fortune when he dies in the United States? Can titles be conferred upon successful men in America? Must each man earn his own honors and reputation? Does the *personnel* of American aristocracy continually change? Why does it not endanger the liberties of the people?

WHO SUCCEED AMERICAN ARISTOCRATS?

273. Who but the children of the people? Who but those enjoying equal advantages of education and development under equal laws, who are clever enough, strong enough, persevering and industrious enough to win the prizes which our system offers anew to each generation?

"**To him that hath** (talent, industry and perseverance) **shall be given** (the earnings of those qualities in the good things of the world); **but from him that hath not, shall be taken away even that which he hath.**"*

NOTES.—Said Spotswood, a royal Governor of the colony of Virginia, in 1710: "The inclinations of the country are rendered mysterious by a new and unaccountable humor which hath obtained in several countries, of excluding the 'gentlemen' from being burgesses, and choosing only persons of mean figure and character."—2*d Bancroft*, 453.

"The immense majority of the American families were not of the 'high folk of Normandy,' but were of the low men who were Saxons. This is true of New England; it is true of the South. Shall the Virginians be described in a word? They were Anglo-Saxons in the woods again, with the culture and intelligence of the seventeenth century. 'The major part of the house of burgesses now consisted of Virginians that never saw a town.' The Anglo-Saxon mind, in its serenest nationality, neither distorted by fanaticism nor subdued by superstition, nor wounded by persecution, but fondly cherishing its active instinct for personal freedom, secure possession, and legislative power, had made its dwelling place in the empire of Powhatan."—2*d Bancroft*, 452.

"That the sweat and tedious labor of the husbandmen, early and late, cold and hot, wet and dry, should be converted into the pleasure, the ease and pastime of a small number of men; that the cart, the plow, the thresh, should be in inordinate severity laid upon nineteen parts of the land to feed the appetites of the twentieth, is far from the appointment of the Great Governor of the world."—*Penn.* I, 496.

*Matt. xxv: 29.

273. Who succeed American aristocrats? Quote the text from Matthew?

"Man is equal to his fellow-man. No class can by long apprenticeship, or a prelate's breath, by wearing black, or shaving the crown, obtain a monopoly of moral truth."—*Barclay*, VII, 310, 311.

"Every man has God in his conscience. All men are alike by creation, and it is a slavish fear which reverences others as gods. What a pother has noble blood made in the world! But men of blood have no marks of honor stamped on them by nature. My Lord Peter and My Lord Paul are not to be found in the Bible. My Lord Solon or Lord Scipio is not to be read in Greek or Latin stories.—*Barclay*, I, 417.

For Bible authorities forbidding either the creation or reverence of privileged orders among men, the reader can consult the following:

Matt. xx: 25–28; Matt. xxiii: 8–12; Matt. ii: 10; Acts x: 34; Job xxxiv: 19; James iii; 1; 1st Peter v: 3; Romans ii: 11; James ii: 2–9; Phillippians ii: 3; Matt. vii: 12; Job xxxii: 21–22.

"No man or association of men have any other title to obtain advantages, particular and exclusive privileges, distinct from those of the community, than what arises from the consideration of services rendered to the public—and this title being, in nature, neither hereditary nor transmissable to children or descendants, or relations of blood, the idea of a man born a magistrate, law-giver or judge, is absurd and unnatural."—*Const. Massachusetts*, Part I, Sec. 6.

THE PRINCE AND THE CITIZEN.—Within a year or two, the whole world has had extraordinary opportunities of measuring the distance between Princes of the blood royal and a plain citizen of the United States, as announced by public opinion. The Duke of Edinburgh visited but few places outside the dominions of his royal mother, and cannot be justly brought into competition with the latter. The Grand Duke Alexis of Russia is now (1872) on his travels, attended by a splendid fleet of war vessels, and a no less splendid retinue of courtiers and high nobility. He is received everywhere with the honors due his rank, and the generous hospitality of the nations. It is to his position, and not to the individual, that unsparing homage is done. He comes as the princely representative of one of the most powerful empires in the world—as the nearest immediate relative of the Czar—and he comes in all the pride, pomp and circumstance of royalty itself. Wherever he goes, he will be received with the attention due to the Grand Duke, and it is meet that such should be his greeting.

Another quite different picture now presents itself for remark. A plain citizen of the United States, holding no official position, representing no one but himself, in a quiet, unostentatious and perfectly republican style, makes a tour of observation extended to many countries, with as many differing systems of government, laws, habits, religion, and observances. His whole attendance is composed of two ladies and a male friend. No fleets, nor armies—none of the surroundings which herald rank and royal blood—accompany his movements, but wherever he goes, Kings and Princes delight to do him honor. Potentates place their resources at his disposal. His person is as safe as if he lived in a sanctuary. Palaces fly open at his approach. Railways, war vessels, camels and elephants are at his command. Music, feasting, and every hospitality are lavished on him by royal hosts. Nothing is omitted to render him happy and welcome. It is the man, and not his position, which commands such notable respect. It is his brilliant genius, his wonderful mental calibre, his powerful intellect, his splendid services to his country, which have provided him with Aladdin's lamp. Such Americans as William H. Seward need no royal blood to command a world's homage.

In America, the "gentleman" is the *gentle* man; *i. e.*, the man who respects all the rights of others; in Europe, he is the *genteel* man.

LESSON XXV.

OF POLITICAL PARTIES.

274. Americans are very apt to lose sight of the principles of their Government, because their eyes are too often blinded by the glare of party fireworks. Since the earliest days of the Republic, party strife has always enlisted the feelings and passions of the whole people, from the President in the Capitol to

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274. Why do Americans often lose sight of the principles of their Government? Have political parties always existed? Do they include all citizens? Do they sometimes seem to threaten civil war. Have they ever resulted in civil war? When?

the lowest ward politician in the cities. And to such a degree of fury has party spirit been indulged, that we seem on the verge of civil war at every general election; and in 1861 that catastrophe actually resulted on a larger scale than the world ever before witnessed, and involving consequences that will be felt to the remotest generation of our people.

275. *Is the political party an American idea, or is it only an evil inseparable from free institutions?*

From what we learned in Lessons VIII to XI, and XVI to XVIII, concerning free and public opinion, and the means of making and ascertaining it, we see that **political parties are a logical sequence of a republican form of government.** The people are sovereign. The majority rules. In order to ascertain the majority, propositions must be stated and candidates nominated to sustain or oppose them; the voters must be marshaled in favor of or against them; and sufficient opportunity given to each citizen to understand what and whom he votes for at the election called to decide the questions at issue. Hence, party platforms, newspapers, political conventions, mass meetings, processions, "stump" speaking, political clubs, societies, leagues and unions. Hence the excitements of every political canvas. **Hence the apparent supremacy of party to patriotism in the public mind.** And hence the necessity of always bearing in mind where the **benefits of political parties end,** and where the **dangers of party spirit begin.**

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275. Are political parties necessary under our form of government? Why? Can majorities be ascertained or political opinion formed on political questions without them? What machinery is used by political parties? Is party *apparently* superior to patriotism in the United States? Is it *really* so? What limit must be observed in the use of party?

THEIR BENEFITS.

276. **"Eternal vigilance is the price of liberty." "The opposition is the glory of a Free Government."** While under Monarchy, opposition is kept down by force, its leaders executed, or imprisoned, or banished as traitors, its meetings proscribed and prevented by the police: with us, as in England, it is a portion of the grand system of checks and balances in the Government. **Each set of party leaders knows that their continuance in office depends upon the majority at the next election, and that the majority will be against them if by mismanagement of public affairs they lose the public confidence.** Hence one weighty reason why, no matter who held the offices, our Government has always been so conducted as to secure all the objects for which it was created.*

277. The violent moral agitations which precede our frequent elections are a sufficient, though harmless, gratification of **that popular love of excitement** which, by the laws of human nature, **must have occasional free vent everywhere, in some shape or other.** Men naturally are contentious. They must have fighting of some kind; some cause to espouse, some enemy to overcome. **In Europe this passion is sated by frequent wars; but with us it is suffi-**

*See Sec. 71.

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276. What is the character of the "opposition" under a Free Government? What is it under Monarchy? What is the effect of the opposition on the minds of parties in power? What result has this produced on the administration of the Government?

277. What is the effect of political excitement in satiating the natural love of contest in the human breast? Are men naturally contentious? How is this passion gratified in Europe? How in America? Which method is most conducive to happiness? What should thoughtful minds tired of our politics remember?

ciently exhausted by the mimic war of the ballot-box, without producing any physical harm to either victors or vanquished. Thoughtful minds should remember this when wearied of the party clack that is continually dinned into their ears. **Better to bear this ill than to fly to its alternative,** so frightfully destructive of human happiness under all other Governments.

278. Parties are the only means of causing Government to feel its responsibility to the people, by continually changing the persons who compose it. "Rotation in office" * is an American idea. Alternation in party majorities is the only means of reducing this principle to practice.

THEIR DANGERS.

279. But while political parties are necessary, and beneficial when confined within their legitimate bounds, **they become fraught with the gravest dangers when allowed to exceed those bounds.** Said Washington, in his Farewell Address to his countrymen:

"Party spirit, unfortunately, is inseparable from our nature, having its root in the strongest passions of the human mind. It exists under different shapes in all Governments, more or less stifled, repressed or confined: but in those of the popular form it is seen in its greatest rankness, and is truly their worst enemy.

"The alternate dominion of one faction over another, sharpened by the spirit of revenge natural to party dissension, which in different ages and countries has perpe-

* See Massachusetts Declaration of Rights, Part I, Sec. 8.

278. How do parties effect rotation in office? What is the effect of this upon the minds of the public servants?

279. What dangers are inherent in party spirit? Give the substance of the quotation from Washington's Farewell Address to his countrymen?

trated the most horrid enormities, is itself a frightful despotism. But this leads at length to a more formal and permanent despotism. The disorders and miseries which result, gradually incline the minds of men to seek security and repose in the absolute power of an individual; and sooner or later the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purposes of his own elevation on the ruins of public liberty. * * * Party spirit serves always to distract the public councils, and enfeeble the public administration. It agitates the community with ill-founded jealousies and false alarms; kindles the animosity of one part against another; foments occasional riot and insurrection. * * * In Governments purely elective it is a spirit not to be encouraged. From their natural tendency it is certain there will always be enough of that spirit for every salutary purpose; and there being constant danger of excess, the effort ought to be, by force of public opinion, to mitigate and assuage it. A fire not to be quenched, it demands a uniform vigilance to prevent its bursting into a flame, lest, instead of warming, it should consume."

280. These words of the immortal Washington, so thoroughly fulfilled in our own day, should never be forgotten by any American citizen. Remember, therefore, that:

A. Party spirit, like water and fire, is necessary under the American system. But it must be kept within bounds, or, like the flood or the conflagration, it will sweep away or destroy the whole fabric of our institutions.

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280. A. What does party spirit resemble in its uses and abuses? How must it be controlled? If not controlled, what results?

B. That the legitimate sphere of political parties is in the election of men to offices created by existing Constitutions: in the promotion of measures tending to improve or alter existing laws by Constitutional means: or in procuring amendments to the Constitution in the manner provided therein.

C. That party spirit exceeds the limits prescribed by the public safety, when it seeks to overthrow the Government by force. This is treason and revolution.

D. That party becomes dangerous when it
Takes geographical limits;
Admits sectarianism among its principles;
Seeks to govern by a higher law than the Constitution;
Seeks the personal interest of its leaders;
When its meetings are secret;
When its members use signs, pass-words, badges and colors?
When it interferes with private friendships;
When it employs lying, slander, falsehood and deception;
When it coerces individual opinion;
When it destroys individuality of character;
When it secures the election of bad men, on party grounds only;
When it tampers with the election laws—by bribery, by "stuffing the ballot-box," "colonizing," or other means;
When it forgets patriotism in its own interest, merging the great system of American

B. What is the legitimate sphere of party?
C. When does it transcend the limits of public safety?
D. When does it become dangerous? Give each of the thirteen cases mentioned?

ideas in the fleeting questions of the hour, or in the interests of particular men.

E. That the safest, most permanent and most useful line of party division, is that between conservatives and progressives.

F. That no good citizen should hesitate to leave any party, which, being guilty of these errors or excesses, endangers the peace and permanence of the American nation. When all parties are thus alike tainted, then the dissolution of our Government becomes only a question of time.

NOTES.—For an able and exhaustive discussion of the subject of this Lesson, see *Leiber's Political Ethics*, Vol. II, 412.

E. What is the safest, most permanent and useful line of party demarcation?

F. When should good citizens leave a party? What will happen when all political parties become demoralized?

Part II.

LEGAL IDEAS.

PART II.

LEGAL IDEAS.

281. On turning back to the "Classification of American Ideas," you will see that we have hitherto treated exclusively of "**POLITICAL IDEAS, which are the principles regulating the action of the people in forming and maintaining the Government in such shape that it is strong enough to punish criminals and protect its citizens in the enjoyment of all their rights, and yet powerless to do any harm to its own law-abiding people.**"

282. We come now to the discussion of those **LEGAL IDEAS which underlie the laws through which the Government deals with accused persons and criminals, and regulates the rights of property and personal relations between man and man.**

283. In Lesson 2, Sec. 53 (of Law), we saw that **American Laws are divided into Criminal, Civil, Maritime, Military, and Revenue Laws, and the Law of Nations.**

Were we to undertake to give a clear idea of all those departments of law, not only would such discussion greatly exceed the limits of this work, and be above the comprehension of young minds, but it would embrace a field occupied in common by all systems of laws. For

all civilized nations have laws regulating the arrest and punishment of criminals, personal rights, property, armies, taxes, shipping, and foreign relations; and so vast is the scope of these laws that very few even of professional lawyers are found to be expert in those of any country save their own. We have heretofore, in Lessons 20 and 21, explained the distinctive American idea which subordinates the military to the civil power. In Lessons 5 and 9, we have shown that in America there is no taxation without representation, and that all officers employed in collecting the revenue are responsible to the people. And in Lesson 22, we have shown something of the American mode of dealing with foreign nations. We have now no more to say on the subjects of Military or Revenue law, or the Law of Nations. And on the topics of Criminal and Cival Law, we propose only to touch upon those fundamental ideas, peculiar to our system, which are of vital importance to personal liberty and happiness; are expressed in our Constitutions and Statutes, and easy of comprehension to every reader.

LESSON XXVI.

OF CRIMES AND PUNISHMENTS.

284. *What is the division line between criminal and civil law?*

The same that distinguishes public from private wrongs.

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284. What is the distinction between criminal and civil law? Define *private* wrongs? Define *public* wrongs? Give an instance of a private wrong? Of a public wrong? (The teacher can here exercise his pupils by requiring them to give a variety of cases of each, so as to attain a clear idea of the fundamental division of law.)

"**Private wrongs or civil injuries, are an infringement or privation of the civil rights which belong to individuals, considered merely as individuals; public wrongs, or crimes and misdemeanors, are a violation of the public rights and duties due to the whole community, considered as a community, in its aggregate capacity.** If I detain a field from another man, to which the law has given him a right, this is a **civil** injury and not a crime; for here only the right of an individual is concerned, and it is immaterial to the public which of us is in possession of the land; but treason, robbery, and murder, are properly ranked among crimes; since, beside the injury done to individuals, they strike at the very being of society, which cannot possibly exist if actions of this sort are suffered to escape with impunity."* The divisions between criminal and civil law are therefore the same as stated in Sec. 53.

285. *The criminal law being the protection of civilized society to the individual members thereof, against the acts of such persons as will not voluntarily respect the rights of others, must be framed and executed in such manner as to show clearly what acts are criminal. How is this managed in the United States?*

The Legislatures of all the States, and the Congress of the United States, pass laws defining all the crimes and misdemeanors which are intended to be punished by their respective courts. That is, the laws of each State refer only to crimes and misdemeanors committed

*Blackstone's Com., Book IV, 5.

285. How must the criminal law be framed and executed? How is this managed in the United States? What is the distinctive jurisdiction between the Government of the State and the United States in this department? Who is the prosecuting party in criminal actions? Why? Wherein is the commonwealth offended by the commission of a crime?

within that State, and these are investigated and punished only by the courts of that State. And the criminal laws of Congress refer only to offenses which cannot be reached by the State courts, such as piracy and murder on the high seas, and criminal acts committed in the District of Columbia and the territories where there are no State Governments, or against the Federal Government. In these cases the crimes are punished by the Federal Courts. In all criminal cases the State or the United States (according to their several jurisdictions) is the prosecuting party, because the Government, undertaking as its first duty to protect life, liberty, and property, is offended by every violent assault upon individual rights; for these injure, not only individuals, but the dignity and peace of the commonwealth.

DEFINITIONS OF PARTICULAR CRIMES.

286. All crimes and misdemeanors are strictly defined in the laws. No matter how grievous an act may be, if it were not defined to be a crime when committed it cannot be punished, for it violates no law. Crimes are divided into classes like the following:

A. **Crimes against the Government and people,** such as treason, and the misprision (or knowledge and concealment) of treason.

B. **Offenses against the persons of individuals,** such as murder, manslaughter, mayhem, (or maiming)

286. Are all crimes and misdemeanors strictly defined by the laws? Can any act be punished as a crime, if not so defined in the law when the act was committed? Are crimes divided into classes? What crimes are included among those against the Government and people? Against the persons of individuals? Against habitations and other buildings? Against property? What are forgery and counterfeiting? Crimes against public justice? Offenses against the public peace? Against public morality? Against health and police? What offenses are punishable by United States law?

duelling, prize-fighting, drawing deadly weapons, poisoning, rape, assault, false imprisonment, and kidnapping.

C. **Offenses against habitations or other buildings,** such as arson, burning of ships, and burglary.

D. **Offenses against property,** such as robbery, larceny, receiving stolen goods, embezzlement, destroying title deeds.

E. **Forgery and counterfeiting** of money, papers, etc.

F. **Crimes against public justice,** such as perjury, bribery, stealing or altering records, conspiracy, extortion, and opening another's letters.

G. **Offenses against the public peace,** such as riot, disturbing the peace at night, disturbing a religious assembly, and libel.

H. **Offenses against public morality,** such as bigamy, polygamy, gambling and lotteries.

I. **Offenses against health and police,** such as maintaining nuisances, selling bad provisions, and obstructing the public highway.

J. **Offenses by cheats, swindlers and other fraudulent persons.**

K. **Fraudulent and malicious mischief.***

The criminal laws passed by Congress also punish violations of Federal Statutes, such as offenses against the post office, counterfeiting United States coin or securities, frauds on the United States revenue, etc.

DISTINCTION BETWEEN CRIME AND SIN.

287. Now, as we have frequently repeated, **every**

*See Statutes of California, "Crimes and Punishments."

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287. What is the distinction between crime and sin? Are there not many acts wrong in themselves, which the State cannot punish as crimes or misdemeanors?

person is permitted under our form of government to do whatever he pleases, so long as he does not infringe upon the rights of others. All acts that infringe upon the rights of others are forbidden by the laws. Therefore every person may do as he pleases, so long as he does not violate the laws, and he can violate the criminal law only by intentionally committing some act which is especially and clearly prohibited, and to which a distinct punishment is attached by the law.

And here the distinction between **sin** and **crime** must be carefully borne in mind: **Sin is offending against the laws of God**, and includes not only such acts as tend to injure other people, but also such as injure only the person who commits them. **But with the latter class of offenses** (as we have seen in Sec. 31,) **society —that is, the State—has nothing to do.** Neither can it notice **mere motives** so long as they are not carried into effect, although no act is criminal unless committed with a criminal intent.

To illustrate: John says, "Whosoever hateth his brother is a murderer."* Hating one's brother is a **sin**, but so long as the brother is not injured by such hatred, no **crime** is committed. By such sin the hater hurts only himself, for he destroys his own peace of mind; but so long as he does no injury or "overt act" to his brother, the State cannot notice his mental condition. But let him give way to this feeling, and beat or kill his

*1 John iii: 15. This means that he has the motive in his heart which, if indulged, will make him a murderer.

Where does the State begin to have the right to interfere? Can the State notice mere motives? Does it notice the motive when a *criminal act* has been committed? Can any act be a crime unless it proceeded from a criminal motive? Quote the instance illustrating this distinction? Which of the Ten Commandments does the State not enforce? Why not?

brother: **now the crime or overt act is committed which the State must notice, because it must protect the brother's right to life and liberty**; and in trying the murderer, **the hatred must be proved as the motive to the crime,** for it is no murder to kill a man by accident.

So also, American law does not undertake to enforce those of the Ten Commandments which prescribe man's duty towards God. **To attempt this would be for man to usurp the place of God.** It would interfere with freedom of conscience, re-unite Church and State, establish an inquisition over men's most secret thoughts, and throw society into confusion.

The State therefore has nothing to do with sin; it deals only with crimes and misdemeanors as defined by its own laws, and to each of these it prescribes a special degree of punishment, in proportion to the offense.

PUNISHMENTS.

288. As all crimes are assaults upon the life, liberty, property or happiness of the persons suffering therefrom, so the Government punishes criminals by the deprivation of their life, liberty or property, and consequent happiness. **But the punishment in the United States is always graduated according to the nature of the offense.*** Thus, murder in the first degree, which is

*By the laws of England, a century ago, not less than one hundred and sixty different offenses were punishable with death.—*Blackstone's Com.*, Book IV, 19.

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288. How is punishment in the United States always proportioned? What crimes are punished with death? What with imprisonment for life, or for a long term of years? What for a shorter term? How are misdemeanors punished? What other punishment is used besides death and imprisonment? What criminals are deprived of the right of suffrage? How only can this be restored?

the killing of a human being with malice aforethought, is punished with death. So also is treason, and the willful burning or breaking open of a house, whereby a life or lives shall have been destroyed. Murder in the second degree, and manslaughter, are punished with imprisonment in a State prison for ten years or for life. Grand larceny, burglary, forgery, bigamy, and all other offenses described in the laws as "felonies," are punished by confinement in the State Prison for not less than one year, or for a longer period, proportioned to the gravity of the offense. Many other lesser offenses, known by the name of "misdemeanors," are punished by imprisonment in a county jail for not more than one year. Many offenses, both felonies and misdemeanors, are also punishable by fines, or by both fine and imprisonment, at the discretion of the Judge. A person convicted of any felony thereby forfeits his right of suffrage as long as he lives, unless pardoned by the Governor before the expiration of his sentence.*

OBJECTS OF PUNISHMENT.

289. The objects of punishment under the American system are threefold:

A. **The amendment of the offender himself;** in that he will not be likely to offend again, after having found by experience that "the way of the transgressor is hard."†

B. **Deterring others from crime through dread of his example.** Hence one motive for the universal publication of all Court proceedings in the United States.

*See Sec. 207.

†Proverbs xiii: 15.

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289. What are the *objects* of punishment under the American system? Is revenge ever admitted as a motive of punishment by the State?

C. **Depriving the party injuring another of the power to do future mischief.** Hence, the punishments of death and of long imprisonments.*

But the motive of revenge, being under all circumstances forbidden to men, must never enter into the punishment of criminals by the State. "Vengeance is mine; I will repay, saith the Lord."†

NOTE.—The distinction between crime and sin, as limiting the power of society over the individual, has been strangely overlooked in all countries ruled by priests, without much distinction of the religion they taught. Nearly all of the supposed offenses punished by the Inquisition were those against God—certainly, they were not against other men, or society. And in the Blue Laws of New Haven colony, the Anti-Quaker laws of Plymouth and Massachusetts Bay, the Blue Laws of New York, Maryland, Virginia and South Carolina (see Case, Tiffany & Co's edition, Hartford, 1838), many curious statutes are recorded, fettering the freedom of thought and private conduct of individuals almost as thoroughly as the Levitical Law of Moses. But the early colonists "builded greater than they knew." Their mistakes are but trifles, when we consider the present consequences of the principles they eliminated during the colonial school-days of the nation.

LESSON XXVII.

OF THE RIGHTS OF ACCUSED PERSONS, NO. I.

290. Most of the crimes forbidden by our laws are in like manner prohibited by the laws of Monarchical Gov-

*Blackstone's Com., Book IV, 12.

†Rom. xii: 19. See also Deut. xxxii: 35, 41; Ps. xciv: 1 Heb. x: 30.

290. What is the object of all American institutions? Is a person who is merely *accused*, but not *convicted* of crime, entitled to protection? Why should he not be? What mistakes are liable to arise in making accusations? What tyrannies threaten personal liberty under pretense of accusation of crime? On what two maxims is our whole criminal law based? Is the protection of accused persons in all their rights a distinctive American idea?

ernments, as also are many acts which are not deemed criminal in America. **But in the United States the object of all our institutions is to protect the citizen.** A person who is **merely accused**, but **not yet convicted** of crime, is as much entitled to this protection as any other citizen. Why should he not be? **Every human being is liable to be mistaken, and may accuse the wrong person of an offense against the laws, or may make a malicious accusation, or may cause a person to be arrested for an act which is not a crime. Or the officers of the Government may seek to oppress individuals by false charges, unfair trials, illegal imprisonments, or cruel or unusual punishments.** Hence an untold amount of suffering endured during many ages by millions of innocent persons, accused of crimes under Monarchical Governments. To prevent this, our whole system of criminal practice is based upon the maxims that "every man is to be presumed innocent until **he is proved** to be guilty," and that "it is better that a hundred guilty persons should escape, than that one innocent person should suffer." Hence the great anxiety to do no injustice, and the tender care of all his rights extended by the law to each person accused of crime. This protection to such persons is one of the most striking peculiarities of the American system. It neither is nor has been exhibited to the same extent, under any other form of government.

291. *What are the provisions of the American Constitution on this subject?*

Art. III, Sec. 2, Clause 3 of the Federal Constitution reads: "The trial of all crimes except in cases of im-

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291. Quote Art. III, Sec. 2, clause 3, of the Federal Constitution? Quote Art. IV of the amendments? Art. V of the same? Art. VI of the same? Art. VIII of the same?

peachment shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed."

Art. IV of the amendments to the Federal Constitution reads: "The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated; and no warrants shall issue but upon probable case, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

Art. V of those amendments reads:

"No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger;* nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall he be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty or property without due process of law."

Art. VI of the amendments reads:

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law; and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory pro-

* These cases are punished by Military Law. See Sec. 53, D.

cess for obtaining witnesses in his favor; and have the assistance of counsel for his defense."

Art. VIII of the amendments reads:

"Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."

292. *In all the State Constitutions the principles of the above quotations are adopted, and the laws made both by Congress and the State Legislatures in accordance therewith secure to every person accused of crime the most perfect justice throughout all the proceedings.* A few of these provisions are as follows:

"A **crime** or **public offense** is an act or omission forbidden by law, and to which is annexed upon conviction either of the following punishments: first, death; second, imprisonment; third, fine."

"Public offenses are divided into **felonies** and **misdemeanors.**"

"A **felony** is a public offense, punishable with death, or by imprisonment in a State Prison."

"Every other public offense is a **misdemeanor.**"

"No person can be punished for a public offense **except upon legal conviction** in a Court having jurisdiction thereof."

"In every crime or public offense, there must be an **union** or **joint operation of act and intention** or criminal negligence."

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292. What is the legal definition of a crime? How are public offenses divided? What is a felony? What is a misdemeanor? Can any person be punishable for a public offense except on conviction in a competent court? What two elements are required to constitute a public offense? Are acts deemed criminal which result from accident or misfortune, or are not prompted by evil design or culpable negligence? Why are not all crimes punished alike? What would result if light offenses were punished as severely as flagrant crimes? Within what time must prosecution for crimes be commenced? Can idiots or lunatics be punished for crimes? Can a child under fourteen years of age?

"All acts committed by misfortune or accident shall not be deemed criminal, where it satisfactorily appears that there was no evil design or culpable negligence."

"No person who is an **idiot** or **lunatic**, or who is **under fourteen years of age**, shall be found guilty or punished for any crime.*

"All penalties ought to be proportioned to the nature of the offense. No wise Legislature will affix the punishment to crimes of theft, forgery and the like, which they do to murder and treason. Where the same undistinguishable severity is exerted against all offenses, the people are led to forget the real distinctions in the crimes themselves, and to commit the most flagrant with as little compunction as they do the lightest offenses. For the same reason a multitude of sanguinary laws is both impolitic and unjust, the true design of all punishments being to reform, not to exterminate mankind." †

The time after the commission of offenses, within which a prosecution must be commenced, is **limited by law to three years**, in the case of all felonies **except murder**, and to **one year** in the case of **misdemeanors.**

293. All judicial proceedings are protected by the solemn oath or affirmation of all who take part in them. The judges, grand and petit jurors, lawyers, district attorney, clerk, sheriff, complainant, witnesses and reporters, are all sworn according to law to perform their respective duties honestly, faithfully and truly. Even if the oath fails to bind the conscience of any of them, which rarely happens, the person so failing is liable to punishment for perjury.

*See Statutes of California, "Criminal Practice."
† Constitution of New Hampshire, Part I, Sec. 18.

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293. What is the use and purpose of the judicial oath in Courts of Justice?

LESSON XXVIII.

OF THE RIGHTS OF ACCUSED PERSONS, NO. II.

294. We proceed now to discuss in their natural order the several rights with which American Constitutions and Laws invest all persons accused of crime.

No person shall be deprived of life, liberty or property without due process of law.

Not only shall each individual be protected against all other individuals in the enjoyment of all his rights, but the Government itself shall have no power to infringe upon those rights, except they be forfeited by the criminal acts of the citizen. And in this case, to prevent all injury that might be inflicted through the tyranny or avarice of public officers, they are strictly bound in all cases to **follow the law to the very letter.** As all men living under a Republican Government give their consent to the law, which without it could not exist, so criminals cannot complain of the just operation of that law: though it deprives them, by way of punishment for crime, of life, liberty or property.

295. *Every man is presumed to be innocent until he is proved to be guilty.**

The opposite of this maxim has been generally practiced under monarchies, England excepted, where a mere accusation puts a man under the necessity of proving his innocence, in which, even if innocent, he may

*Cal. Criminal Practice, Sec. 365.

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294. Can any person be deprived of life, liberty or property without due process of law? Has the Government any more power under the law to oppress an individual than private persons have? Must judicial officers follow the law strictly?

295. Quote the legal maxim as to the presumption of the innocence of accused persons? Has this maxim or its opposite been generally practiced under monarchies? What must be *positively proved* under the American rule?

not be successful. In America, the prosecution must **prove positively** the guilt of the accused. Though he be **really guilty**, unless **he be proved** so, he must be acquitted. This principle is a great protection to persons unjustly accused of crime.

296. *No warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized.*

In monarchical countries, except England, nothing is more common than for the police or soldiery to invade private houses, ransack their contents, seize books, letters and persons, and carry them off at the pleasure of the rulers, who may desire to get rid of a troublesome subject by taking this method to find evidence against him. Nothing of this kind is tolerated in America. **A warrant is the written order of a magistrate, commanding a sheriff or constable to arrest a certain person, or search a certain place for a certain thing** —say, for stolen property. But no Judge can issue such a warrant at his own pleasure. He must wait until some person makes a sworn complaint, stating a **probable cause** for the issue of the warrant. Whoever makes such a complaint falsely may be sued by the party injured, for damages for false imprisonment.* And whoever makes an arrest of a person except on a warrant legally issued, or for a public offense attempted or committed in his presence, or for a felony,† is liable to dam-

* Statutes of Cal., Crimes and Punishments, Sec. 52.
† California Criminal Practice, Sec. 140.

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296. What is a warrant? Can Judges issue warrants at their own pleasure? On what condition only can they issue warrants? What remedy has the party who is falsely accused in a sworn complaint? Can persons be seized and places searched by policemen and other public officers without a warrant? In what cases? Are warrants for arrests required in monarchical countries?

ages therefor. **Whoever enters another's house against the owner's will, except armed with a warrant, is punishable as a trespasser or burglar.**

297. *The trial of all crimes shall be held in the State where the said crime shall have been committed. In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained* (*made definite*) *by law.*

Before the Revolution, the British authorities in the colonies used to send Americans accused of crime to England for trial, compelling them to leave their homes and business for months and years, and to indemnify their witnesses for a similar expense and loss of time, or go to trial without them. The result was ruin to any one **so unfortunate as to be accused,** whether he were guilty or not. Hence the careful provision in the Constitution above quoted.

In Sec. 60, we learned of the division of the States into counties, and something of the duties of the County Judge and District Attorney. **A county is always a Judicial District,** and before the Courts of each county are tried the offenses committed within it. Thus the distances to be traveled and expenses to be incurred by the accused and his witnesses are made as small as possible, while a jury selected from the vicinity where the crime was committed is more likely to err on the side of

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297. What was the British practice before the Revolution as to sending accused persons from America to England for trial? What hardships resulted therefrom? What is the Constitutional provision as to the *place* where the trial of crimes shall be held? What is a Judicial District? What objects are gained by restricting the trial to the Judicial District in which the crime has been committed?

mercy, than to be guilty of injustice to their accused neighbor.

293. *The accused shall have the right to a speedy trial,* because when a trial is delayed witnesses may go away, or they may forget points in their testimony. Furthermore, a long period of suspense before trial is an useless and cruel aggravation, especially to an innocent person. For this reason, in Courts having both civil and criminal jurisdiction, the civil business must always wait until all the criminal cases have been disposed of. Life and liberty are more precious than mere property.

299. *The accused shall have the right to a public trial.*

Neither Judge nor Jury nor District Attorney will be as likely to commit injustice in the presence of their master, the public, as they would if their proceedings were secret.* This provision, however, refers only to the Petit or Trial Jury, which finally determines the case. It does not refer to the Grand Jury, whose business is only to *begin*, not to *end*, the prosecution.

300. *Excessive bail shall not be required.*

Bail is the security given to a Judge for the appearance of an accused person for trial, on condition that meanwhile he may have his liberty. A bail bond must be signed by two or more persons, householders and residents of the county. The accused has the right to offer bail for his appearance in every case, except where the offense charged is punishable with death, and the

*See Sec. 124, D.

298. Why is the accused entitled to a *speedy* trial? Does criminal business take precedence of civil in Courts that have jurisdiction over both? Why?

299. What is gained by the accused in a *public* rather than a *private* trial?

300. What is bail? Have all accused persons the right to offer bail for their appearance at trial? What is the limit as to the amount of bail that may be required? What are the objects of admitting accused persons to bail? Why is bail refused in case of crime punishable with death? What is the general principle in regard to subjecting accused persons to restraint before conviction?

proof against him is evident, or the presumption of his guilt is great. In such cases he must remain in jail for safe-keeping. But when the offense is bailable, the Judge is limited to the exaction of such an amount of bail as shall be in proportion to the crime. Otherwise, the accused who could furnish $5,000 bail, but not $20,000, might be obliged to lie in jail.

The objects of bail are threefold:

A. To avoid depriving the accused of his liberty until he is clearly proved guilty.

B. To save the country the expense of maintaining him while awaiting trial.

C. To give him every opportunity to seek his witnesses and prepare for trial, which he could not have if imprisoned meanwhile.

Bail is refused in capital cases, "where the proof is evident or the presumption great," because every one knowing himself guilty of a capital crime would naturally save his life by escaping, even though his bailors should thereby lose their money; and thus the worst of criminals would be very apt to evade punishment. The general principle in all cases is, that no person charged with a public offense shall be subjected before conviction to any more restraint than is necessary for his detention to answer the charge.*

301. *No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury.*

†**The Grand Jury consists of from fifteen to**

* Cal. Penal Code, 1872, p. 150.

† Statutes of Cal., "Jurors," Art. II, 5; see also Forsyth's History of Trial by Jury, Chap. 10,

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301. Describe the Grand Jury. How is it formed? What is its mode of procedure? What is an indictment? A "true bill?" What is meant by "ignoring" a bill?

twenty-four citizen tax-payers, residents of the county, whose names are drawn by lot, by the County Judge, County Clerk and Sheriff, from a list of fifty such names, taken at random from a list of tax-payers in the county. Their business is to inquire under oath into all cases of reported violation of law, or neglect or misconduct of the public officers within the county. If any twelve of the twenty-four, after hearing the evidence against any accused person, think that the proof is sufficient to make his conviction probable, their presiding officer or foreman indorses the words "a true bill" upon the written accusation or "indictment" prepared by the District Attorney in the case. (See Sec. 60.) **The Grand Jury sits in secret,** the accused having no right to defend himself before them, though in some States they may hear both sides if they desire it.* If they find the proof insufficient, the bill is "ignored" (that is, they refuse to indict the accused), when all proceedings against him are at once stayed.

302. *Why does the Grand Jury sit in secret?*

A. Because the malicious prosecutions commenced and ended before it can do no harm to the persons accused, who would have been uselessly injured by a public accusation.

B. Because indictments are frequently laid against persons not yet arrested, who if forewarned by a public indictment, would escape arrest.

C. Because wealthy criminals, or evil-doing public officers, might tamper or interfere with the Grand Jury, if they knew of the investigation of their misdeeds; whence the course of justice might be interrupted.

*This is the case in California.

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302. Why does the Grand Jury sit in secret?

303. *Why is the Grand Jury necessary to the protection of individual liberty?*

The principle that runs all through republican institutions was expressed by Solomon, when he said: "Where no counsel is, the people fall; **but in the multitude of counsellors there is safety.**" "One-man power" is a monarchical, not an American idea. **One** is more apt to err than **twelve.** A Judge accustomed to dictation from the bench is more apt to be tyrannical than twelve or twenty-four ordinary citizens, whose natural bent would be to "deal gently with the erring." All the rights of accused persons are a sacred trust in the hands of the Government, any abuse of which strikes directly at the foundations of individual liberty. Any one accusing officer would be apt to abuse this trust.

When the Grand Jury is composed of good citizens, as it generally is, it is an institution before which the guilty must needs tremble, while no innocent person need fear it. **The Grand Jurors are a committee of the sovereign people, sent to see whether the laws are properly obeyed and executed. The office is full of dignity. No patriotic citizen should fail to execute it when called on, with zeal, impartiality and honor.**

LESSON XXIX.

OF THE RIGHTS OF ACCUSED PERSONS, NO. III.

304. *In all criminal prosecutions the accused shall enjoy the right to be informed of the nature and cause of the accusation, and to have the assistance of counsel for his defense.*

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303. Why is the Grand Jury necessary to the protection of individual liberty?

304. Has the accused person the right to be informed of the charge against him? To have counsel for his defense? Would the contrary course be unfair

Nothing would be a greater mockery of justice than to put a person upon his trial upon a charge of which he were ignorant, or to subject him to the dangers of a prosecution without the assistance of counsel learned in the law; yet nothing has been more common on the continent of Europe. In the United States the accused is informed of his accusation and of his rights in the following manner:

After the Grand Jury has indicted the accused, and he has been arrested and brought before the Court for arraignment, if he appear without counsel, **he shall be informed by the Court that it is his right to have counsel before being arraigned, and shall be asked if he desire the aid of counsel.** The "arraignment" must be made by the Court, or by the Clerk or District Attorney, under its direction, **and consists in reading the indictment to the defendant, and delivering to him a copy thereof including the list of witnesses endorsed on it, and asking him whether he pleads guilty or not guilty to the indictment.*** As the effect of pleading guilty (that is, confessing the crime) is to dispense with the trial and convict the accused, who must then be sentenced by the Court, the Judges are very careful not to allow him to plead guilty except he do so with a full knowledge of all his rights, and the consequences of this act.

If the defendant be too poor to employ an attorney, **the Court will assign him counsel without charge.†**

This right is peculiarly American. Even in England,

* California Criminal Practice, Secs. 271, 272.
† California Penal Code, 1872, Sec. 987.

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or unjust? Is it practiced in Europe? How is the accused protected in these respects in American Courts? What is "arraignment"? In what case is counsel assigned by the Court without expense to the accused?

from whence we have derived the basis of our criminal law, counsel were not allowed at all to persons accused of felonies below the grade of treason, till the year 1836.*

305. *No person shall be compelled in any criminal action to be a witness against himself.*

It has been the standing rule for centuries in European continental countries, to compel accused persons to criminate themselves by every device of imprisonment, chains, starvation, rack, thumb-screws, and other tortures which malignant ingenuity could invent. Under our system, any one **wishing** to confess can do so, when called upon to plead guilty or not guilty. But though the accused, if guilty, always knows more of the crime than any one else, his motive to lie is so great that no dependence could be placed upon any statement he might make, except so far as it was corroborated by other evidence. And if innocent, he has of course nothing to confess; though his accusers, except they have other evidence, can never tell whether his denial of the charge be true or false. In either case, therefore, **confession is superfluous,** and the attempt to extort it by torture is barbarous and inhuman. Such practice is "rating a man's virtue by the hardiness of his constitution, and his guilt by the sensibility of his nerves."†

306. *In all criminal actions the accused shall have the*

* Townsend's Analysis of Civil Government, p. 255.
† IV Blackstone, 326.

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305. Can the accused be compelled to testify against himself? How is this in continental Europe? Why is the testimony of the accused superfluous? What do you think of extorting confession by the use of torture?

306. What right has the accused as to being confronted with the witnesses against him? Why would it be unfair or unjust to deny this right? What right has he as to procuring the attendance of witnesses in his favor? What is the argument in support of this right?

right to be confronted with the witnesses against him, and to have compulsory process for obtaining witnesses in his favor.

It is a common failing of human nature, that men are very apt to say behind one's back what they dare not or would not say to his face. They are also much more apt to be strictly truthful when they expect to be cross-examined by the lawyer, and contradicted by the witnesses of the accused, than when accusing him before the secret Grand Jury, where there is no such check to their testimony, or when talking against him elsewhere. **Hence, fairness towards the accused requires his presence when evidence is to be offered against him.**

Again, the accused may be poor; his witnesses may care nothing for him, or they may be afraid to assist him against the power of the Government, or of an influential prosecution. How eminently just therefore is the provision that **the State shall exert its power as much in his behalf as in its own**; that the very Court which is to punish him if he be found guilty, shall **compel** his witnesses to attend the trial, and that the State shall pay their expenses.*

TRIAL BY JURY.

307. *The trial of all crimes, except in cases of impeachment* (to be hereafter discussed), *shall be by jury.*

In order that the trial, whose object is only to ascertain the truth of the accusation, may be perfectly fair,

* Statute of California, "Fees of Witnesses."

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307. Describe a trial by jury. (The teacher will here explain the manner in which juries are impanneled under the laws of his own State.) Why is the judgment of twelve men more apt to be right than that of one? What points in every case are to be decided by the jury? What is the office of the Judge in a jury trial? What is the Judge's "charge"? Describe the mode of rendering a verdict? What happens when the jury do not agree?

and free from prejudice, malice, and especially from judicial tyranny, our law requires the submission of all questions **of fact** to a jury of twelve citizens, chosen from among the people in such a manner as to prevent absolutely any partiality for or against the accused. For the details of the manner in which a trial jury is selected, the student may consult the statutes of his own State. He will find them framed with all the care that experience, skill, and a jealous watchfulness over the rights of the accused can possibly suggest.

If a jury of the requisite impartiality cannot be obtained in the county where the crime is committed, which sometimes happens in very notorious cases, the Judge must send the case to another county where such prejudice does not exist.*

The reasons for substituting the judgment of twelve citizens for that of one Judge, in the institution of trial by jury, are the same as those heretofore given in Sec. 303, in treating of the Grand Jury.

Before the Trial Jury, and in open Court, over which presides the Judge, all the witnessess on **both** sides are examined and cross-examined. The office of the Judge is only to see that the laws of evidence are enforced, and the management of the case on both sides is conducted according to law. After the testimony is all given, the District Attorney for the people, and the counsel for the accused, each in turn argue their side to the jury. The Judge then "charges" them, that is, he informs them of the law applicable to the case "at bar." The jury then retire in charge of the Sheriff, for consultation among themselves. If they agree, on their return to the Court, they pronounce the accused "guilty," or

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*Cal. Penal Code, 1872, Sec. 1033.

"not guilty," which is called rendering a "verdict." If they cannot agree after twenty-four or forty-eight hours, they are dismissed, and a new jury must then be impanneled, and a new trial had. **Under the American system the jury must always be unanimous.*** If only one of the twelve holds out against the others, the case must be tried again.

NEW TRIALS AND APPEALS.

303. You will naturally think that if the rights of an accused person are so carefully guarded, as related above, no injustice can possibly be done him. But though the verdict of a jury settles nearly all cases, it sometimes happens that a mistake has been made in following the forms of law; or the jury may have misunderstood the facts, or been guilty of misconduct in finding their verdict; or new evidence may be discovered. In all such cases, the Judge may set aside the verdict, and order a new trial. Sometimes, also, the Judge will have made some error in admitting or excluding testimony, or in explaining the law to the jury. In such cases, on the demand of the attorney for the defense, and for good reasons given, the Judge must allow his rulings to be revised on an appeal to the Supreme Court, where all the points of law at issue are argued by the two attorneys in the case. If the Supreme Court finds error in the proceedings, it will order the defendant to have a new trial. If not, then the decision of the lower Court is affirmed, and its sentence of punishment is carried into execution.

*There is an exception to this rule in the new State of Nevada.

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308. Does the verdict of a jury settle all cases? In what cases must the Judge grant a new trial? In what cases an appeal? What are the proceedings in case of an appeal?

309. *Cruel or unusual punishments shall not be inflicted.* As we have seen in Sec. 288, all punishments in the United States are limited to death, fine and imprisonment, and these are graduated by law according to the offense. Americans do not tolerate the knout, the pillory, the stocks, the galleys, branding, cropping of ears, banishment, or transportation, all of which are yet regularly inflicted in some parts of Europe; nor the rack, thumb-screws, the wheel, fire, and other tortures formerly in universal use on that continent.

310. *No person shall be subject for the same offense to be twice put in jeopardy of life or limb.*

Once acquitted, the prisoner is free. The State will not expose him a second time to punishment on the same charge. Otherwise an accusation might hang over a man for a lifetime, and the contemplation of the ever possible contingency of his again passing the ordeal of trial would forever destroy his happiness. If the State cannot convict on the first trial, she never can try it again.

311. *In case of a reasonable doubt whether the guilt of the accused is satisfactorily shown, he is entitled to an acquittal. When there is reasonable ground of doubt in which of two or more degrees he is guilty, he can be convicted of the lowest of such degrees only.**

So far is the American system from condemning a man merely because he is accused, or of forcing him to crim-

* Cal. Penal Code, Secs. 1096, 1097.

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309. Can cruel or unusual punishments be inflicted by law in the United States? To what three punishments are the Courts restricted? How is this on the continent of Europe?

310. Can any person be subject for the same offense to be twice put in jeopardy of life or limb? Why not?

311. What is the effect of a doubt in the minds of the jury as to the guilt of the accused? What the effect of a doubt as to whether he has committed a greater or lesser crime?

inate himself, that the Government must make out its case against him with perfect clearness and certainty. If it fails in this, the accused must be acquitted. When, after a Grand Jury has charged a person with murder, the proof offered by the District Attorney leaves it doubtful whether he committed murder or manslaughter, the Petit Jury can find him guilty only of the lesser offense.

312. We might occupy several more lessons in giving details of the minor rights conferred by law upon accused persons, but the foregoing will be sufficient to indicate the American ideas on this subject. The pupil should study these principles thoroughly: for though it is to be hoped that he may never be obliged to claim these rights, yet the time will surely come when as juror, or witness, or perhaps as Judge or Court officer, he will be obliged to administer the law, and accord these rights in the case of some unfortunate fellow-citizen. And he cannot be competent as a citizen to pass judgment upon the manner in which the judiciary of the country is conducted, unless he be familiar with the principles on which that branch of the Government is founded.

LESSON XXX

OF EUROPEAN CRIMINAL PRACTICE.

313. *What are the points of contrast between the American and the old inquisitorial method of criminal procedure on the continent of Europe?*

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312. Why should you be familiar with the rights of accused persons?

313. Have the rights of accused persons been as carefully guarded on the continent of Europe as they now are in the United States? What method of trial was principally used previous to 1789? What was the procedure under it?

The Monarchical Governments of continental Europe, until the date of the French Revolution of 1789, displayed as little regard for the rights of accused persons as for all other popular rights. As their armies were used to put down insurrections by the masses of the people, so the business of the police was rather to **persecute** than **prosecute** those individuals who became obnoxious to the Government. The method of trial, if it deserved the name, was borrowed from the Inquisition, and consisted principally in forcing the person accused to confess his guilt **by torture.** History is full of the horrible barbarities thus inflicted upon the helpless and often innocent victims of malevolent power; while, undoubtedly, of the millions who have suffered and died under these tortures, but very few comparatively have found mention in the books.

314. Under this system there was no jury, no indictment, no warrant required for arrest, no bail, no counsel, no publicity, no distinct laws of evidence, no legal definition of specific crimes, no prohibition of cruel or unusual punishments, no limitation of trial to the district where the crime was committed, no compulsory attendance of defendant's witnesses, no presumption of innocence before conviction, no benefit of doubt to the prisoner, no responsibility of Judges save to the crown, no habeas corpus, no limitation of time within which to prosecute.

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314. Was there any jury under this system? Was there counsel? Indictment? Warrant of arrest? Publicity? Distinct laws of evidence? Legal definition of crimes? Prohibition of cruel or unusual punishment? Limitation of district? Compulsory attendance of defendant's witnesses? Presumption of innocence before conviction? Benefit of doubt to the prisoner? Habeas corpus? Limitation of time in which to prosecute?

315. But instead of these protections to the accused, the trial seems to have been conducted on the principle **that a mere accusation deprived the victim of all rights, and that the whole proceedings were to be for the sole benefit of the prosecuting party.** It aimed at knowing the truth, but the means to arrive at it were very little regarded. The laxity and injustice of its mode of procedure are shown in the following points:

A. The "inquiring" Judge, that is, the Judge who had been appointed to lead the whole inquiry, spent day after day with the prisoner, in the presence of only one witness, who was his secretary. This Judge, whose whole skill had been exerted to bring the prisoner to confession, or to establish his guilt, was also frequently the first sentencing Judge, and also very strongly influenced the sentence. This was as if our offices of Detective, District Attorney, Judge and Jury were all combined into one.

B. The inquiring Judge was wholly unrestricted as to time, and an accused person might remain under trial for years. The Judge was also unlimited as to the means he might use to establish the guilt of the accused. He could take hearsay evidence at his discretion. He was allowed to resort to all kinds of tricks in order to work upon the imagination of the prisoner. He might call him up at midnight, examine him, and then suddenly show him a skull. Every unworthy and puerile motive to confess the offense was resorted to.

C. There was no regular indictment, nor did the law

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315. What principles were substituted for all these? Describe the mode of procedure of the "inquiring" Judge. Was it his principal duty to extort confession? What means might he use for this purpose? On what presumption was the whole proceeding based? Was there any cross-examination of witnesses? Were punishments inflicted in proportion to the crime committed?

require that the accused should know what was charged against him.

D. **The whole proceeding was based on the presumption that the accused was guilty, and must disprove the charge against him.**

E. The moral torture which was applied to induce confession was immense, and the Judge was authorized by law to punish with lashes or other physical means every contradiction or lie proved from the testimony of the accused himself.

F. There was no cross-examination of witnesses.

G. Punishments were not inflicted **in proportion to the crime** of which the accused was proven guilty, but **in accordance with the degree of proof** against him.*

316. At the present day this system still prevails in those countries where trial by jury has not yet been established, though the growth of civilization, aided in political affairs by the examples of England and the United States, by increasing publicity, regard for public opinion, and communication with free countries, has softened its harsher features.

Trial by jury has been introduced as follows:

In France, in 1791. But in that country a verdict may be given by a majority of the jury. And it has been found of little use in trials of political offenses, for the Government has generally managed in this class of cases so to pack or intimidate the juries, as to secure the conviction of persons obnoxious to it.

*Condensed from Lieber's Self-Government and Civil Liberty, pp. 457-463.

316. Does the inquisitorial trial still exist? In what countries? When was the jury trial introduced into France? Must the verdict be *unanimous* in that country? When was the jury trial introduced into Belgium? Portugal? Greece? Geneva? Germany? Sardinia? What has been the effect of the example of England and the United States upon continental Europe, in softening the modes of treating accused persons?

In Belgium, in 1830. In Geneva, in 1844.
In Portugal, in 1832. In Germany, in 1845.
In Greece, in 1834. In Sardinia, in 1849.*

317. The foregoing will furnish some notion of the particulars wherein the criminal practice of a large part of Europe yet differs from the justice and mercy so happily blended in the American system. Though it be possible that fewer criminals escape punishment in Europe than in the United States, the conscientious mind cannot help preferring the reflection that **with us fewer innocents are mistakenly and cruelly punished. The American cannot forget the words of Him who said even to a conscious criminal, "Woman, hath no man condemned thee? Neither do I condemn thee. Go, and sin no more."**†

NOTES.—It would seem that torture continues to exist in some parts of Europe. The following is taken from the "London Spectator" of December 22d, 1849, which gives as its authority the Allgemeine Zeitung, published at Augsburg, not far from Switzerland:

"A strange circumstance has just taken place at Herisan, the capital of Inner Appenzall, in Switzerland, showing how much in these countries of old liberties, civilization is behindhand in some matters. A young girl of nineteen, some months back, assassinated her rival. Her lover was arrested with her, and as she accused him of the crime, *both were put to the torture.* The girl yielded to the pain, and confessed her crime; the young man held firm to his denial; the former was condemned to death, and on the seventh of the month was decapitated with the sword in the market place of Herisan, after a two hours struggle with four men who were appointed to execute the sentence."—*Lieber's C. L. & S. G.*, p. 463, note.

*Forsyth's History of Trial by Jury, pp. 347–367.
† John viii: 11.

317. What humane reflection compensates the American for the fact that with us criminals sometimes escape punishment? What saying of Christ justifies our system?

The novel reader will get a fair idea of the old French mode of dealing with accused persons, in the first chapters of the "Count of Monte Cristo." Also of French punishments from Vol. I of "*Les Miserables*," by V. Hugo.

For an interesting account of Paraguayan trials, as conducted under the tyrant Lopez the younger, within the past decade, the reader is referred to Washburne's History of Paraguay, 1871.

LESSON XXXI.

OF HABEAS CORPUS AND EX POST FACTO LAWS.

318. *What is meant by the term "Habeas Corpus"?*

This term is a Latin law phrase, and means "You may have the body." It is applied to a "writ" or written instrument issued by certain of the higher Judges who are specified by law, and addressed to any person who may be complained of as guilty of keeping another imprisoned or deprived of his liberty without due process of law, as required by the Constitution. The object of this writ is to protect personal liberty.

319. *What says the Federal Constitution on the subject of Habeas Corpus?*

"The privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it."—Art. I, Sec. 9, Clause 2.

The several State Constitutions contain substantially the same clause.

320. *What was the origin of this writ?*

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318. What is the meaning of the term *habeas corpus*? Describe the writ of *habeas corpus*? What is its object?

319. Quote the clause from the Federal Constitution on this subject?

320. What was the origin of this writ? In what countries is it used, and for what purposes?

It was derived by the American States from Great Britain, where it was enacted by Parliament in the reign of Charles II.* The writ of *habeas corpus* has since that time, not only in Britain, but in all her colonies, as well as in the United States, been relied upon as the most efficient device ever invented by man, to prevent all manner of illegal imprisonments, and unlawful restraints of persons.

321. *How does this writ operate in practice?*

It sometimes happens, in the administration of law and government, that a person is wrongfully imprisoned or restrained of his freedom, before he has been lawfully tried and ordered to be imprisoned in punishment for some crime. Sometimes also persons may be imprisoned by individuals without any pretense of the forms of law: as by illegally holding a child in custody, or locking a person in a room. Thus, we will suppose James Smith to be imprisoned in the San Francisco county jail:

A. He, or some person for him, swears to a petition which recites the facts of his imprisonment, and that the petitioner is wrongfully detained in said jail by John Short, the jailor. This petition is addressed to a Judge of one of the higher Courts, from whom it asks a writ of **habeas corpus**. This writ may be granted—

1. By the State Supreme Court, or any Judge thereof, upon petition on behalf of any person restrained of his liberty in the State.

2. By the District Courts, or a Judge thereof, upon petition on behalf of any person restrained of his liberty in their respective districts.

3. By the County Courts, or a Judge thereof, upon

*Lieber's C. L. and S. G., 66.

321. How does it operate in practice? Give a detailed account of its workings? Does it determine whether or not the prisoner is guilty of any charge against him?

petition on behalf of any person restrained of his liberty in these respective counties.* These districts limit the jurisdiction of the several Judges. **No Judge having jurisdiction can refuse to issue this writ, when legally applied for.**

B. **The writ is always thereupon issued,** commanding John Short to bring the body of James Smith before the Court on the day mentioned in the writ. The notice given is always very brief, generally only one or two days.

C. The writ is served by the Sheriff, who reads it to Short, and gives him a copy of it if requested.

D. On the day named in the writ, Short appears in Court, bringing James Smith with him, and Short exhibits to the Judge the documents, or other legal proofs, whereon he claims the right to the custody of Smith.

E. If these proofs are satisfactory to the Court, the prisoner is ordered back to prison. But if they are insufficient, the prisoner is released.

The proceeding under the writ of habeas corpus does not determine whether or not the prisoner is guilty of any crime, but simply whether he is rightfully or wrongfully imprisoned at the time of inquiry. Excessive bail may have been required of him, and he may have been unable to procure it, though he may have offered bail in a reasonable sum. The papers on which he was imprisoned may be void for want of proper form, or they may be defective in substance. A man may be guilty, yet illegally imprisoned.

322. Every American citizen, or foreigner resi-

* Cal. Penal Code, Sec. 1475.

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322. Has every person on American soil the privilege of the writ of *habeas corpus*? What are the only exceptions?

dent in America, if restrained of his liberty before conviction, has the right to sue out a writ of habeas corpus, to ascertain the legality of his imprisonment. The only exception to this rule is when the privilege of the writ is suspended by legislative authority in a time of insurrection or invasion.*

323. In cases of rebellion or invasion it is generally necessary to supsend this writ for a time. In such emergencies it becomes necessary to imprison traitors, spies, and other disaffected persons, sometimes in large numbers, in order to prevent their assisting the enemy. Were every such person entitled to all his civil rights at such a time, the enemy could often overthrow all the institutions of the country, while the law was enforcing one of them. **The public safety is of more importance than individual rights.** It was for this reason that the writ of habeas corpus was suspended by Congress (only the Legislature has power to suspend it) during the four years' civil war from 1861 to 1865.†

324. In Sec. 286, we saw that "all crimes and misdemeanors are strictly defined in the laws. **No matter how grievous an act may be, if it were not defined to be a crime when committed, it cannot be punished, for it violates no law."**

But if, after such an act has been committed, the Legislature should have the power to make it a crime, the concession of such a power to any branch of the Government would be dangerous to liberty, for it would permit the criminal laws to be continually changed so as

* Art. 1, Sec. 12, Clause 9, Fed. Constitution.

† See "Analysis of Civil Government," by Calvin Townsend, 211; Duer's Constitutional Jurisprudence, 153.

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323. Why is the writ necessarily suspended in time of rebellion or invasion?

324. What is an *ex post facto* law? Are such laws permitted by the Federal Constitution? Why not?

to suit special cases as they might arise. **All laws relating to crimes and misdemeanors, which are intended to act backwards in point of time, are called "ex post facto laws," and are expressly forbidden by Article I, Sec. 9, Clause 3, of the Federal Constitution which provides that "No ex post facto law shall be passed."**

325. Ex post facto laws are laws which render an act punishable in a manner in which it was not punishable when committed. This definition includes:

A. Such laws as render criminal an act done before the law was passed, which was then innocent.

B. Such laws as make an act more criminal than it was when committed.

C. Such laws as inflict a greater punishment than was affixed by law to the act when it was committed.*

326. Every person is bound by the law as it exists at the date of every action he performs of which the law can take notice. He is therefore presumed to know what the law is. But no one can be presumed to know what the law **will be** at some future time. Hence the prohibition of **ex post facto** laws.

NOTES.—Long imprisonments before trial are customary on the continent of Europe, in order to harass the subjects. Guerrazzi and other liberals were sentenced in Tuscany, July 1st, 1853, after having been imprisoned for fifty months before they were brought to trial. It is useless to mention more instances; for long imprison-

*See Duer's Const. Jurisprudence, 355.

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325. What laws are included under the term *ex post facto*?

326. Is every person presumed to know what the law is at any particular time? Can he be presumed to know what it *will* be after the Legislature shall change it?

ment before trial is the rule in absolute Governments, whenever it suits them.—*Lieber's C. L. and S. G.*, 66, note.

In France, where such jealousy is shown of everything which touches national honor and equality, people do not attach themselves so religiously to personal liberty. The quiet of the citizen may be disturbed, his home may be violated, he may be made to undergo for whole months a preventive imprisonment, personal guarantees may be despised, and a few generous men will raise their voices; but *public* opinion will remain calm and impassive as long as no political passion is awakened. Here lies the great reason for the violence of authority; it *can* be arbitrary, *because there is no curb to check it.*

Works of Louis Napoleon, Ed. 1854, *Art.* "*Of Individual Liberty in England.*"

LESSON XXXII.

OF TREASON AND ITS PUNISHMENT.

327. Turn back to Chapter II, of the Introduction, and refresh your memory as to the Feudal System, and the Divine Right of Kings.

328. **"Treason" is the offense of attempting to overthrow the government of the State to which the offender owes allegiance, or of betraying the State into the hands of a foreign power.***

329. In despotisms, the King is the sole representative of the State. Said Louis XIV, of France: "I am the State!"† Every attempt, therefore, against the life of the King, was and is treason. Not only so; this

*Webster. †L'etat, c'est moi!

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328. Define the term treason.

329. Who is the sole representative of the State in a despotism? Was every attempt against the King treasonable? How was this view of the crime extended? How was treason regarded and punished by absolute monarchs? How under constitutional monarchies? What oppressions have been inflicted upon persons accused of treason?

crime was extended so as to include every attempt against those members of the royal family whose lives were important in the succession to the crown; and also all attempts at rebellion, or disobedience to the royal authority. **Absolute monarchs have invariably been very jealous of their power, and correspondingly severe in their punishments of every case of insubordination, whose promoters were always characterized as traitors.** And as constitutional monarchies were a slow and painful growth out of the once universal feudal ideas of Europe, their framers were for a long time as careful to enact stringent laws against traitors of every degree, as the most tyrannical Kings could have desired. So great was, for ages, the universal horror of treason, that the mere suspicion of it was thought worthy of the severest punishment.‡ The guilt of the accused was often taken for granted before trial, and the most unjust, vindictive and outrageous cruelties have been repeatedly committed in every European country, upon persons who could not have been convicted, had they been allowed any opportunity to prove their innocence.

330. Among the offenses on the part of subjects punished as treason by various English laws, were the following:

Compassing or **imagining** the deaths of the King, Queen or heir to the crown;

Violence offered to the Queen, or to the King's oldest daughter, or to the wife of his heir;

Levying war against the King;

Adhering to the King's enemies, and giving them aid and comfort;

‡Lieber's C. L. and S. G., 82.

330. Name some of the offenses described as treason by English laws.

Counterfeiting the coin of the realm;

Killing a King's officer;

Breaking prison or rescuing a person charged with treason;

Burning houses to extort money, stealing cattle, willful poisoning, execrating the King, counterfeiting his signature or seal, refusing to abjure the Pope, marrying any female of the royal family without the King's consent, throwing doubt upon the King's supremacy, etc.*

331. As a specimen of old English punishments for high treason, we quote the following: "1. That the offender be drawn to the gallows, and not be carried or walk; 2. That he be hanged by the neck, and then cut down alive; 3. That his entrails be taken out and burned, while he is yet alive; 4. That his head be cut off; 5. That his body be divided into four parts; 6. That his head and quarters be at the King's disposal." And this punishment for treason, the great Sir Edward Coke tells us, "is warranted by divers examples in Scripture, for Joab was drawn, Bithan was hanged, Judas was embowelled, and so of the rest."† (By the same style of argument we presume Sir Edward would have justified the imitation of all the crimes narrated in the Bible!)

332. Now the American system of government, as we have seen, does not hang upon the slender thread of one man's life or authority, but is built upon the broad and

*Blackstone, Book IV, 77, *et seq.* †Blackstone, Book IV, 93, and note.

331. Describe the old English punishment for high treason. How did Sir Edward Coke justify such barbarities?

332. Does the American Government depend on the life of any one man? Upon what foundations is it built? Is there any necessity with us for such severe treatment of treason? Can we not afford to treat traitors as leniently as we do other criminals? Why is there but little room for conspiracy to overthrow our Government?

solid basis of the whole people. Hence there is no necessity with us for the timid nervousness on the subject of treason which is inherent in all monarchies. Hence we have no occasion to make an exception, in the case of persons accused of this crime, to those universal principles of justice and mercy which are interwoven in all our criminal laws. **The very provision in our Declaration of Independence, "that whenever any form of government becomes destructive of life, liberty and happiness, it is the right of the people to alter or to abolish it," while it would be construed as a justification of treason under a monarchy, in fact disarms it under a republic.** There is but little room for conspiracy to overthrow a Government that provides for its own alteration by changes in the Constitution and laws, whenever the people desire it. There remains but a limited field, therefore, for the commission of treason, and this is defined in the Federal Constitution as follows:

TREASON DEFINED.

333. *"Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort."* *

RULES FOR ITS TRIAL.

334. *"No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open Court."* †

*Const. Art. III, Sec. 3, Clause 1. †Art. III, Sec. 3, Clause 1.

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333. Define treason as specified in the American Constitution?
334. State the Constitutional rule for its trial.

ITS PUNISHMENT.

335. "*The Congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.*"*

The several States have adopted the language of the Federal Constitution, on the subject of treason as against the State. And Congress, as well as the several State Legislatures, have affixed to it the punishment of death. The crime, and required evidence of it, are so clearly and simply expressed in these extracts, that it is unnecessary to comment upon them.

336. *What is meant by "attainder," and "corruption of blood?"*

These terms are used in the laws of England, whereby, when Parliament passed a bill declaring a person guilty of high treason, he was thereupon deemed to be "attainted," that is, stained or corrupted. The operation of this sentence was, that all the property of such person was at once forfeited to the crown, and he was rendered incapable of inheriting land or titles from his ancestors, or of keeping what he had, or transmitting anything to his heirs. That is, the law of England punished the innocent for the crime of the guilty, and undertook to visit the offense of the father upon the children; not merely to the third or fourth generation, but to his latest posterity.†

*Art. III, Sec. 3, Clause 2.
†Duer's Const. Jurisprudence, 336.

335. Its punishment. Do the State laws vary on this subject? What punishment is affixed to this crime by statute?

336. What is meant by "attainder" and "corruption of blood?" What injustice resulted from these laws in England? Is such injustice possible under our system?

All such injustice as this is forbidden by the clause above quoted from our Constitution. A conviction of treason in the United States **may** be accompanied by forfeiture of property, **during the life of the person convicted,** should Congress so enact. **But even Congress has no power to persecute a child for the crime of its father by corrupting its blood, or confiscating its patrimony.** Such barbarity as this we are content to leave among its associate villainies in Europe, where it originated.

337. Though American laws provide for the capital punishment of treason as defined in the Constitution, public sentiment has always been averse to enforcing the penalty. Hence, at the close of the great civil war of 1861, when the great majority of the people of eleven States had been guilty of levying war against the United States, and were completely at the mercy of the victorious nation, **no attempt whatever to enforce the laws against treason was made by the Government.** Though such an opportunity would have doubtless been improved by every monarchy in existence, by wholesale slaughters, banishments, and confiscations (such as were employed against the Communists in France in 1871), the American Government contented itself by simply disfranchising for a time those who were responsible for the Rebellion. For we felt that **our institutions, founded as they are upon the consent of the people, could not be maintained by force.** "If thine enemy

337. Has public sentiment in the United States been in favor of enforcing the penalties against treason? Were any of the Southern people prosecuted for treason after the close of the civil war of 1861? What was the limit of the punishment imposed upon the South? How did this compare with the treatment of the Communists by the French Government in 1871? Why are Americans indisposed to inflict severe punishment for treason? What is the scripture rule on the subject of treatment of enemies? Has America followed this rule more faithfully than other nations?

hunger, feed him; if he thirst, give him drink: for in so doing thou shalt heap coals of fire on his head. Be not overcome of evil, but overcome evil with good."* **Have not the United States proved their civilization superior to that of any nation that ever existed, in their compliance on so magnificent a scale with this precept of the Apostle?**

NOTES.—We may consider the American law of high treason as the purest in existence, and it shows how closely the law of treason is connected with civil liberty. Chief Justice Marshall said: "As there is no crime which can more excite and agitate the passions of men than treason, no charge demands more from the tribunal, before which it is made, a deliberate and temperate inquiry. Whether the inquiry be directed to the fact or the law, none can be more solemn, none more important to the citizen or to the Government; none can more affect the safety of both."—*Leiber's C. L. and S. G.*, 83.

THE HOTEL DE VILLE — WHAT HAS BEEN WITNESSED FROM ITS WINDOWS.—Strange and terrible scenes, witnessed from the windows of the Hotel de Ville, have been enacted on the Place de Greve (now Place du Hotel de Ville) in days not very far removed from ours. One of these occurred on Monday, March 28, 1757. All the windows that commanded a view of the square were filled with noble ladies and gentlemen, splendidly attired. It was a dazzling blaze of gold-embroidered garments, of glittering orders, of floating plumes, and priceless gems. The assemblage was radiant and gay, chatting and laughing; and yet, from time to time, eager looks were bent upon a space in the centre of the square, surrounded by palisades, and guarded by horse and foot. Was there to be a tournament? What was the promised entertainment, which had attracted so many gallant gentlemen and so many beautiful and high-born ladies? A sort of thrill running through the assembled thousands, a sudden silence, preceded the appearance on the square of a pale, slender man, who advanced, surrounded by guards and officers of justice. The lugubrious procession halted.

The prisoner, for such he was, was stripped, bound, ironed, and laid upon the scaffold in the centre of the palisades. Then followed

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*Rom. xii: 20, 21.

the most horrible scene that the imagination can conceive. The right hand of the sufferer, which held a knife, was burned. He uttered a terrible cry as the member crackled in the blaze, and was then silent and looked at the charred stump with mournful attention. Then the executioner tore out pieces of flesh from his arms and legs, and poured into the flesh a mixture of melted lead, boiling oil, hot pitch, wax and sulphur; at which, says the official report, "the aforesaid criminal cried out at several intervals, 'My God! Strength! Strength!' 'O Lord, my God, have pity on me!' 'O Lord, my God, how I suffer!' 'Lord, my God, give me fortitude!'" As during the burning of his hand, he uttered cries at the infliction of each fresh torture, then became calm and silent, and patiently contemplated his wounds.

Four young and vigorous horses were then harnessed to his limbs; but though they pulled with all their strength, and though the extension of the members was prodigious, they did not succeed in quartering the sufferer until the surgeon's knife had scored the joints. The victim lived till the last limb was torn from his body, and then only gave up the ghost. His mangled remains were thrown upon a pile of wood and burned to ashes. The punishment had lasted hours, and night closed upon the horrible scene. The name of the victim, whose tortures were contemplated with satisfaction by the most refined ladies of the kingdom, was Robert Francis Damiens, and his crime that of stabbing Louis XV with a knife. The King was very slightly wounded, but terribly alarmed. The assassin was arrested on the spot. His motive was religious fanaticism; the King being at variance with the Archbishop of Paris and hostile to certain pretensions of the Church. No one but a King would have ordered such a diabolical punishment to be inflicted. But what monsters of cruelty the great majority of monarchs have been!

LESSON XXXIII.

OF IMPEACHMENT.

338. We have several times alluded in previous lessons to **impeachment** as a means used under the American system to eject a bad public officer from his position, before the close of the term for which he was elected or appointed.

What is impeachment?

It is the calling to account or arraignment of a public officer, for maladministration of his office.

339. *What public officers are liable to impeachment?*

A. **The President and Vice President of the United States, the Judges of the Supreme Court, and of the various United States Courts, and other chief officers.** But impeachments are not necessary in the case of Senators and Representatives, for each house having the exclusive control of its own members, and the right to expel them for malfeasance, this power is sufficient for their governance.* Neither is impeachment necessary in dealing with subordinate appointees of the Executive, who, being politically responsible for their conduct, can remove them at his pleasure.†

B. **The Governor, Lieutenant Governor, Secretary of State, Controller, Treasurer, Attorney-General, Surveyor-General, Judges of the Supreme Court and District Courts of a State, are liable to impeachment in their several States.** (All these

*Duer's Const. Jurisprudence, 66. †Federalist, Sec. 65.

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338. What is impeachment?

339. What Federal officers are liable to impeachment? Are Senators and Representatives so liable? Why not? Are subordinate appointees of the Executive so liable? Why not? What State officers are liable to impeachment? What State officers are not so liable?

officers are elected for fixed terms.) But State Senators and Members of Assembly, and appointees of the Governor to civil offices, are not so liable.

340. *Where does the power of impeachments reside, and before what Courts are they tried?*

In the case of a Federal officer, the impeachment is prepared and managed by the House of Representatives, and is tried before the Senate.* In the case of a State officer, the lower house of the Legislature conducts the impeachment before the State Senate. The Chief Justice of the Supreme Court presides over the Senate, when sitting as a Court of Impeachment.

341. *What rights are secured to public officers under impeachment?*

The accused has substantially the same rights that are guaranteed to persons accused of crime before the ordinary Courts of law. The trial is conducted in a manner similar to that of a criminal indictment by a Grand Jury.†

342. *What are the limits to the punishments that can be inflicted by the Senate on impeachment?*

A. **Removal from office.**

B. **Disqualification to hold and enjoy any office of honor, trust or profit under the Federal or State**

*United States Const. Art. I, Sec. 2, Clause 5. Ib., Art. I, Sec. 3, Clause 6.
†Townsend's Analysis, 147.

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340. Where does the power of impeachment reside? Before what Court are impeachments tried? How is this in the case of Federal officers? How in the case of State officers? Who presides in the Senate when sitting as a Court of Impeachment?

341. What rights are secured to public officers under impeachment? How is the trial conducted?

342. What is the limit to the punishment that can be inflicted by the Senate on impeachment? If the offense be also amenable to the laws, what further punishment may be inflicted, and by what authority?

Government, as the case may be.* But the party found guilty may be further indicted and punished by the ordinary Courts, if his offense be amenable to the criminal laws. Thus, a Judge, removed from office on impeachment for accepting a bribe, may also be prosecuted for the offense against the law, and sentenced to the State Prison. †

343. *For what offenses may public officers be impeached?*

The United States Constitution says: "The President, Vice President and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors." ‡

344. *Why is impeachment provided for in all our Constitutions, and yet so carefully guarded as to its limits, its mode of procedure, and its punishment?*

A. It is provided, because without it there would be no means of dispossessing a corrupt or disloyal officer (above the grade of appointee, who is removable at the pleasure of the Executive) until the expiration of his term of office; whereby the public interests might suffer.

B. It is limited to the charges of "treason, bribery or other high crimes or misdemeanors," because otherwise, party zeal or popular clamor might procure the disgrace and removal of good officers belonging to the opposite party, on frivolous pretenses; thus endangering not only the rights of the persons impeached, but of the

*United States Const., Art. I, Secs. 3, 7. Also, Cal. Penal Code, 1872, Sec. 749.
†New York Penal Code, Sec. 126.
‡Art. II, Sec. 4.

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343. For what offenses may public officers be impeached? Quote the clause from the Federal Constitution on this topic.

344. Why is impeachment provided for in all our Constitutions? Why is it limited to treason, bribery, and other high crimes and misdemeanors? Why is it limited as to punishment?

public, to the extent of the interests confided to the care of such officers.

C. It is limited as to punishment, because such offenses as constitute a disqualification to hold office must in the nature of things be passed upon separately from the penalties visited by ordinary punishment upon ordinary citizens. For instance, a Governor may commit a murder. Though he be Governor, he is, nevertheless, as liable to be hung for such a crime as any one else. But it would be a great public inconvenience as well as scandal, were the chief officer of a State to retain his office while undergoing a trial, imprisonment and execution for a murder. Therefore, he must be first stripped of his office, and then as a private citizen be handed over to the criminal Courts to be dealt with as usual. On the other hand, were impeachment to include the ordinary criminal punishment for the crime committed, the Legislature, while engaged in an impeachment case, would be interfering with the Judiciary. (See Lesson V.)

345. *How are unfaithful subordinate State officers removed?*

By information, followed by trial and conviction for malfeasance in a State Court.*

346. *Is impeachment purely an American institution?*

No. For it was derived by the United States from England. But it exists nowhere else than in these two countries; and its use in England is much more limited than in America.

*See Cal. Statutes, Act of 1853.

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345. How are subordinate State officers removed for malfeasance?
346. Is impeachment purely an American institution?

LESSON XXXIV.

OF THE RIGHTS OF PROPERTY.

347. Next to life and liberty, it is the duty of the Government to protect all its citizens alike in their rights to acquire, enjoy, and dispose of property.

Every individual in the United States is entitled to the absolute ownership of the proceeds of his labor, industry, knowledge and skill; to the savings or accumulation thereof, generally called "capital;" to the earnings of that capital in profits, rents, interest or by dividends; and to such property as he may acquire through gift or inheritance. There are two departments of the law which protect the individual in these rights, viz: The **criminal** law and **civil** law.

PROTECTION TO PROPERTY BY THE CRIMINAL LAW.

348. In the classification of crimes quoted in Sec. 286, were enumerated **offenses against habitations and other buildings**, such as arson and burglary; **offenses against property**, such as robbery, larceny, receiving stolen goods, embezzlement, destroying title deeds; **forgery and counterfeiting; offenses by cheats and swindlers, etc. All these offenses against property are both public and private wrongs.** We have already seen in what manner the **public** wrong is ascertained and punished. The **private** wrong is remedied by restoration of the thing stolen, or its value. Stolen

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347. What important right next to life and liberty must be protected by the Government? To what property is every citizen entitled? What two departments of law protect the individual in his right to property?

348. What crimes against property can you enumerate? Are these offenses both public and private wrongs? Why? Are there therefore both public and private remedies therefor? What is the remedy for the public wrong? What for the private wrong?

property of every description must be returned to the true owner thereof.* Even though the thief may have sold it to an honest purchaser, that purchaser is compelled by the law to surrender it to the lawful owner on his proof of a clear title to it.† And in case the property has been destroyed, or made away with so that it cannot be restored, then the law gives to the sufferer a claim for its value upon the person who has unlawfully deprived him of it, together with damages for the further loss and inconvenience occasioned by its detention.‡ **"Government is bound to assist the rightful owner of property in recovery of the possession of it, when it has been unjustly lost."**§

PROTECTION TO PROPERTY BY THE CIVIL LAW.

349. But there are a thousand occasions for dispute about property between individuals, wherein one seeks to get or retain possession of his neighbor's lands, goods, or money, **without committing any crime, or in which neither party is guilty of any wrong, yet they cannot agree about the matter at issue.** For the settlement of such cases (which are termed civil suits), courts are everywhere provided; each sitting at stated terms in its own district, and administering the law according to the circumstances of each case. Attorneys are usually engaged by both parties, but their fees and all other expenses of the suit are paid by the parties

*New York Crim. Proc., 759.
†Kent's Com., II, 323.
‡New York, P. C., 783.
§Kent, II, 334.

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349. Describe what you understand to be a *civil* suit? How do such actions arise? Does the Government undertake the settlement of disputes about property between individuals? By what means? Are the rights of the parties to civil suits carefully guarded by law? How about appeals? New trials? Jury trial? Attorney? Who pays the cost of civil suits? What Constitutional provision precludes tyranny by the Judges? Repeat the other clauses quoted from the Constitution on this subject? What is the punishment for judicial bribery?

thereto. In case of error by the Judge, and in several other cases, the party aggrieved has the right of appeal, or of a new trial. Appeals may be taken always to at least one higher Court, sometimes to a third and fourth one. Every step in every suit is carefully prescribed by law, so as to prevent injustice, and secure perfect fairness between the parties. And to preclude any attempt at tyranny by the Judges, the Federal Constitution provides: **"That the right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, shall not be violated."*** The Federal Constitution also contains the following provisions:

"No one shall be deprived of property, without due process of law." "In all cases at common law, wherein the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved." †

Should any Judge accept a bribe, that is, take money or other gift from one side as the price of a judgment against the other (a very common crime in half civilized, corrupt, or decaying Governments), all our Constitutions provide for his impeachment.‡

350. *The right to property, being less valuable than the right to life,[a] offenses against mere property shall not be punishable by death, nor shall property be protected, except as against criminals, at the expense of liberty.*

*Art. IV of Amendments. † Art. V of Amendments.
‡ See Lesson XXXIII.

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350. Is the right to property less valuable than that to life? Are offenses against mere property punished with death in the United States? Is property protected at the expense of liberty, except as against persons guilty of a public offense? Are these principles purely American? How many crimes were formerly punishable with death in England? Did England protect property at the expense of life and liberty? What is imprisonment for debt? Is this practiced in England?

These principles are purely of American origin. Even in England, from whose Constitution we have drawn many of our ideas, the punishment of death has, until quite recently, been inflicted not only for murder and arson in the first degree as with us, but also for robbery, burglary, larceny, and many other crimes. That is, **the criminal law of England protected property at the expense of life.** And it also protected property at the expense of liberty, for by the laws of that country, a person unable to pay his debts was, and is yet, liable to be imprisoned, sometimes for life, unless the debt be sooner paid; and this without any regard to the guilt or innocence of the debtor. **Such imprisonments, too, were not the result of a public prosecution, as for crime; but were simply a legal way of gratifying the revenge of the creditor upon the unfortunate person through whom he had lost his money.** To this day, the debtor prisons of England are filled with these unfortunates; though the causes for which they may be imprisoned have been much restricted of late years.*

351. Now, as we have already seen,† **no offense against mere property is punishable by death in the United States,** and though house-breakers, incendiaries and thieves are imprisoned, **their deprivation of liberty is due to their offenses, not so much against the property, as against the peace and dignity of the State.** But no plaintiff obtaining a judgment in a civil suit for money or property can get

*See Dickens' "Little Dorrit." †See Sec. 288.

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351. Is the imprisonment of thieves and robbers in the United States inflicted for the private or public offenses committed by them? Can a creditor imprison his debtor? What case forms an exception to this rule? Why?

anything thereon from the defendant, except money or property. **He cannot imprison the debtor who cannot pay, except he has committed a fraud**; and in that case, though he can cause the arrest of the debtor, the latter is always admitted to bail, and his imprisonment can follow only upon a conviction for fraud in a criminal Court.*

352. As nearly all matters relating to the protection of property are under the exclusive control of the several States, and are not included in the powers entrusted to the Federal Government, the United States Constitution is silent on the subject of imprisonment for debt. But the Constitutions of several of the States contain clauses like the following: **"No person shall be imprisoned for debt in any civil action on mesne or final process** (that is, neither while the suit is in progress or has been ended by a judgment), **except in case of fraud.**†

NOTES.—(a) "The life is more than meat, and the body than raiment."—*Luke xii:* 23.

"A man's life consisteth not in the abundance of the things which he possesseth."—*Luke xii:* 15.

(b) "It is a melancholy truth, that among the variety of actions which men are daily liable to commit, *no less than a hundred and sixty have been declared by Act of Parliament to be felonies without benefit of clergy;* or in other words, to be worthy of instant death."—*Blackstone*, IV, 19.

* Cal. P. C., 154, 155; New York P. C., 212, 213.
† Const. of Cal., Art. I, Sec. 15.

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352. Does the Federal Constitution forbid imprisonment for debt? Why not? How is it in the State Constitutions?

LESSON XXXV.

OF BANKRUPTCY AND HOMESTEAD EXEMPTIONS.

353. *Mere inability to pay one's debts shall not prevent a man from earning his living, or deprive his family of their right to a home.*

Previous to the recent enactment of bankrupt laws, inability to pay one's debts in any European country was one of the worst misfortunes that could overtake a human being. Under the Roman law of the twelve tables, the creditors of a bankrupt might cut his body in pieces, and each of them take a proportionable share; or they might imprison him in chains, subjecting him to stripes and hard labor, or sell him, his wife and children, into perpetual foreign slavery.* And the modern laws of Europe have always been very severe in exacting the last farthing from the debtor, who was sure to be stripped of all his property, including his house, furniture, and tools of trade. His family were turned homeless beggars into the street; his reputation was ruined for life, and he was sent to jail, and thereby disabled from earning a living for himself, or his family.

354. In no American idea is our superior justice, humanity, and regard for natural rights more beautifully displayed, than in our treatment of the unfortunate but honest debtor. The Federal Constitution provides† that "Congress shall have power to es-

*Blackstone, II, 473. See also, Leviticus xxv: 39, 47; and Matt. xviii: 25.
†Art. I, Sec. 8, Clause 4.

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353. What was the condition of persons unable to pay their debts in Europe, previous to the enactment of bankrupt laws? How was it under the Roman law?

354. Is the American idea on this subject superior in humanity to the European laws? Repeat the clause from the Federal Constitution on the subject of bankruptcies? What do American bankrupt laws provide? What is meant by property exempt from execution? What is the effect of a discharge in bankruptcies?

tablish uniform laws on the subject of bankruptcies, throughout the United States." Such laws have been passed. They provide that when a person becomes honestly unable to pay his debts (or "insolvent"), he can turn over to an officer, to be appointed by a Federal Court for that purpose, all his property for the benefit of all his creditors alike, **except what is exempt from execution**—that is, such property as the law allows him to keep for the use of his family, or to enable him to earn a living. And this being done, without fraud or concealment, or any attempt thereat, the debtor is discharged from his debts. He can then resume business. If he prospers, he may if he pleases pay his old creditors in full (and the motives of conscience, honor, and the high respect earned by such acts, induce many to do so). **But the old creditors can never compel payment from the bankrupt,** nor can they after his discharge interfere with his future property or business. Neither is any man's reputation injured by a discharge in bankruptcy, when rendered necessary by circumstances beyond his control, and not impugning his good judgment or good faith.

355. *It may seem at first sight that bankrupt laws work very harshly as against creditors, and are anything rather than a protection to property. But it must be remembered:*

A. **That no person is obliged to become another's creditor.** Whoever sells goods or lends money on trust, does so of his own free will. It is for him to decide beforehand whether the advantage he expects to gain by making a loan or sale be sufficient, provided the

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355. Do bankrupt laws work any injustice to creditors? Why not? Can a dishonest bankrupt take the benefit of the Act? Is equality of payment a hardship to creditors? Why should creditors not be allowed to claim more than their proportion of the property of a bankrupt?

money be paid when due, to recompense him for the risk he runs of never receiving it. **If the debtor fails to pay,** which often happens by misfortune or accident, **this is one of the chances the creditor took.** It would be a great hindrance to trade and commerce, if the debtor were to be forced to take all the chances of loss to others that might grow out of his own honest transactions. In case of **dishonesty, however, not only is no discharge in bankruptcy allowed, but for fraud the party guilty of it is liable to punishment.**

B. As all the creditors took their chances on the debtor's having money enough to pay **all** his debts, and it turns out that there is only enough to pay **a portion** of those debts, then it is much more fair and reasonable that each creditor should get his proportion of what is left, than that one or two should get it all, and the rest nothing. **This equality of payment is specially secured by bankrupt laws.**

C. If the debtor honestly gives up all his available property, that is, all the property on which his creditors trusted him, **that** should be all that they in reason could ask of him. The old plan of "once bankrupt, always bankrupt," inflicted a life of misery on all who were so unfortunate as to fail in business. No such person could ever hope to rise again, because as fast as he would begin to save a little property, some one of his old creditors would seize it, and reduce him once more to beggary. **Better that many persons should each lose a portion of their property, than that one person, and those dependent on him, should be condemned to a life of hopeless poverty and disappointment.**

OF PROPERTY EXEMPT FROM EXECUTION.

356. *It is the American idea that every man owes to the world an equivalent for his living, and therefore must not be deprived* (except in punishment for crime) *of the means of earning that equivalent.* Furthermore, that a married man owes to his family, **by the law of nature**, food, clothing and shelter; which debt cannot be cancelled by any law of society, compelling him to deprive his innocent dependents of the necessaries of life, in order to pay other debts of less binding obligation. Hence, nearly all the States have passed laws "exempting from forced sale" the home of the family, a certain quantity of the land, teams, tools and seed of the farmer; provisions for the family for a certain time; their furniture and clothing, the tools of the mechanic, the library of the professional man, etc. The laws of the newest States are the most liberal in these respects. The Constitution of California provides that "the Legislature shall protect by law from forced sale a certain portion of the homestead and other property of all heads of families."*

NOTES.—Exemption of portions of debtor's property is increasing in various States of the Union, and seems to indicate a progressive policy in this respect. In New York, the house and land of the debtor, he being a householder, and having a family, to the value of one thousand dollars, are now exempted from sale under execution. To entitle the debtor to such exemption, a notice that they are designed to be held as a homestead must be recorded in the clerk's office of the county. This exemption is additional to that which previously protected certain personal property of the debtor. See

*Cal. Const., Art. VI, Sec. 15.

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356. What is the American idea relative to every man's right to earn his living? What in relation to the duty of married men to support their families? Which debt is most binding, the support of one's family, or the payment of his debts? What legislation results from this idea? What property is generally exempted from execution by law? Which States are most liberal in this respect?

Vol. III, p. 479, n. a.; Laws of New York, 1850, p. 499, ch. 260. Similar laws exist in Vermont; see Vermont laws of 1849; in Iowa, laws of 1849, ch. 80; in Ohio, laws of 1850; in Massachusetts, laws 1857; in New Hampshire, laws 1851; in New Jersey, laws 1852; in Kentucky, laws 1854, ch. 497; in Tennessee, laws of 1856, ch. 77; in Alabama, 1853–54, Nos. 8, 13; and in California, where the homestead exemption is $5,000, Wood's Digest, ch. XLII, 2580. See also same work, Art. 953, Sec. 219, for a very liberal scale of exemptions of the tools of nearly all trades and professions. See also Kent's Com. III, 478, and notes.

Bankrupt laws have existed in England for more than three centuries, but their benefits are wholly confined to the mercantile classes.—*Blackstone*, II, 476.

LESSON XXXVI.

OF MONOPOLIES AND PERPETUITIES.

357. *As the greatest good to the greatest number is best promoted when wealth is distributed throughout the mass of the people,* the laws shall not favor monopolies, or hereditary accumulation in the hands of a few, nor tend to make the rich richer, or the poor poorer.*

We have already seen in our first lesson that liberty cannot exist without equality; nor equality, when any class of men are allowed rights which are denied to others. **Hence no monopoly**, that is, "the exclusive power of dealing in any species of goods, or with any

* "Give me neither poverty nor riches, lest I be full and deny Thee, and say, Who is the Lord? or lest I be poor and steal, and take the name of my God in vain." Proverbs xxx: 8.

357. State the proposition at the beginning of this lesson. What is a monopoly? Can monopolies be granted by Congress or the Legislature consistently with the American idea? Why not? Are agreements to raise prices among dealers in any branch of business protected by law? Why not? How are they prevented? What exceptions are there in favor of authors and inventors? Why are these exceptions made? Are they made for a fixed period?

country or market,"* "exclusive command or possession," **can be granted to individuals or corporations by Congress or by Legislatures, without a gross and dangerous violation of a fundamental American idea.** Our doctrine is, that **all kinds of business are free to all who engage in them, so far as the law is concerned.** Not only so, but all combinations or agreements among dealers, in any one kind of business, to raise prices or limit the quantity of any article produced, are contrary to the laws against **"restraint of trade,"** and therefore illegal.† The only exceptions to these general and uniform laws are those in favor of authors and inventors; to each of whom is granted, for a limited period, the exclusive right to publish his own books, or make and sell his own inventions. These exceptions are tolerated because a new book or machine takes nothing away from other books and machines, unless it be better than they; in which case the public is greatly benefitted by their composition or invention. **But without the hope of gain, offered by the copyright and patent laws, very few would care to write books or invent machines, and thus the greatest of all incentives to the progress of civilization would be taken away.** After the expiration of the stipulated time, any one is free to print the book or manufacture the invention, and thus the monopoly is short-lived.

ENGLISH MONOPOLIES.

358. In the days of Queen Elizabeth of England, the trade of that kingdom was grievously interfered with by

* See Webster's Dictionary.
† Blackstone, IV, Chap. 12.

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358. Were monopolies formerly granted by the English sovereigns? Name some of them.

her wholesale granting of monopolies. And this abuse of royal power did not cease with her reign. Such were the exclusive privileges granted to the Hudson's Bay Company (which still exists) for collecting furs in North America, and to the celebrated East India Company for the control of the East Indian trade. Such also were the crown grants to the early proprietors of the American colonies. Thus, to William Penn was granted the State of Pennsylvania; to Lord Baltimore the whole State of Maryland, etc.; and from these proprietors all the colonists were obliged to purchase their lands.

AMERICAN MONOPOLIES.

359. It must be acknowledged that Congress has seriously violated this principle in a number of instances, in the granting of immense tracts of land to railroad corporations; and lately in the exclusive commercial grant made to the Alaska Fur Company, for the taking of furs in the Territory of Alaska. So far as land grants to railroads are concerned, public sentiment is now (1872) demanding a change in the policy of the Government; for it has been found that those huge corporations are rapidly endangering the liberty as well as the equality of the people.

PRIMOGENITURE AND ENTAIL.

360. England has two laws designed expressly for the perpetuation of wealth in families, by inheritance from generation to generation. One of these is the law of **primogeniture,*** by which the eldest son is the legal

*Blackstone, IV, 421.

359. Has Congress violated this principle? In what cases? What is the present condition of public sentiment on this subject?

360. Describe the English law of primogeniture. What is its effect? Of entail. How does this law operate? What is the joint effect of these laws in promoting monopolies?

heir to all his father's lands, leaving only the personal property, if any, to his younger children, who are thus often obliged to become dependent on the older brother, or to go out and work for their living while he is rolling in wealth. The other is the law of **entail**,* whereby a person making a will can make it impossible for his heirs, perhaps to the third or fourth generation, to sell his landed property. By the operation of these two laws the largest estates the world ever heard of are retained in the possession of certain English families, who by this means, aided by their titles, and other hereditary dignities, are enabled to maintain their power in perpetuity.

NO SUCH LAWS IN THE UNITED STATES.

361. But in America, nothing of this kind is allowed. Both of these laws are infringements upon liberty, for the youngest son, or the daughter, has as good a **natural** right to inherit a portion of the father's wealth as the oldest son. It is no fault in the former, no merit in the latter, that one happened to be born at a different time, or of a different sex, from the other. Why should their fortunes differ on such a ground? And the heir inheriting property under restraint from selling it, cannot do as he will with his own, so that he cannot enjoy all the rights of property over it. **No law of primogeniture or entail finds place on American statute books.**†

362. *The laws shall not tend to make the rich richer, nor the poor poorer.*

*Blackstone, Chap. VII. †See Sec. 272.

361. Is anything of this kind allowed in the United States? What injustice is effected by the laws of primogeniture and entail?

362. Do American laws tend to make the rich richer, and the poor poorer? What would be the tendency of such laws? Give an instance of their operation?

If the laws had such tendency, they would lead directly to the formation of aristocracy, and would be unjust to the poorer class—that is, to the great majority—for the rich are always a very few among the whole number of people. Thus, if a monopoly of trade in a certain article, such for instance as coal, could be procured **by law** in favor of a certain set of dealers, no person would then be **allowed** to buy coal except from the monopolists, who would of course put up the price so as to become enormously wealthy at the expense of the multitude who buy coal. Such a law would make the rich man richer, and the poor man poorer.

363. Now it is impossible for the law in a free country to prevent **temporary** commercial monopolies: for the movements of trade left to themselves are governed by the laws of trade. These laws are better understood by some men than by others, and as the shrewd, far-seeing business man is as much protected by law in his acquisitions (provided no law be violated in gathering them), as the ignorant, stupid or careless man, he will naturally add to his wealth at the expense of others not so able or so fortunate. And at first sight this looks as if the law were partial to such men. But this is a mistake. The laws of the game of chess are the same to both players; but that does not deprive the better player of his superior skill, nor of his consequent ability to win the game.

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363. Is it possible for the law in a free country to prevent *temporary* commercial monopolies? Why not? What laws should be left free to govern trade? Must the laws of the land protect *all*, including shrewd and energetic men, in their honest gains? Why? Would there remain any motive for exertion if industrious and prudent people were denied the enjoyment of the fruits of their labors? Must not some, therefore, succeed better than others? Would it be just for the laws to compel a division of the property of the rich in favor of the idle and poor? What is the restriction in the United States upon the enactment of laws interfering with the laws of trade? Why are mere commercial monopolies temporary in their nature? What only can create a permanent monopoly?

The rules of base ball are alike to both clubs, but that does not prevent the best muscle, skill and practice from driving the weaker and less expert party from the field. **If there were laws in such games giving to one party the right to the victory in all cases, then such laws would be as oppressive and unfair as laws of the land which should make the rich richer and the poor poorer.** The American idea herein is, that **the laws of the land shall not restrict the laws of trade.** Thus all have an equal chance, except as against the superior knowledge, activity, energy, prudence, economy and foresight, with which nature and education always favor some individuals more than others. And shrewd financiers are continually scheming to form and control commercial monopolies. In this they may succeed **for a time, but the duration of their success is always brief.** Death, revolutions in fortune, and free competition, soon break up the scheme. **Nothing but legislation can create a permanent monopoly, and this kind of legislation is unconstitutional in nearly all the States.***

364. American law sustains, in some respects, the same relation to property that it does to religion. The State depends for popular morality on the churches, and for popular prosperity on business; therefore all churches are free, and all business is free. The State cannot ally itself to any one sect to the exclusion or injury of any other;† neither can it favor one business to the damage of another. The religionist is

*Thus, the Constitution of California provides that "No perpetuity shall be allowed except for eleemosynary (*i. e.*, charitable) purposes." Art. XI, Sec. 16.

†See Lesson XIII.

364. In what respects does American law bear the same relation to property as to religion?

left to the control of his own church in all matters pertaining thereto: so the merchant, manufacturer and tradesman are left to the operation of the laws of their respective callings. The results are parallel; for while the voluntary zeal and activity of religions was never more marked than in the United States, so the variety of occupations, the energy of industry, and the general pursuit of wealth, were never more productive than among our people.

LESSON XXXVII.

OF PRIVATE PROPERTY TAKEN FOR PUBLIC USE.

365. "*Private property shall not be taken for public use without just compensation.*" *

There are two cases in which Government rightfully takes private property for public use. The first is by way of the taxes levied upon all the people in proportion to their property for the purpose of paying its regular expenses,† **for taxes are the price of the protection which the Government gives to the lives, liberties and remaining property of the tax-payers and their families.**

366. The other case is when the Government requires

*Federal Constitution, Amendment V.

†See Lesson XIX.

LESSON XXXVII.—**365.** In what two cases may the Government rightfully take private property for public uses? What is the consideration given by the Government to the people for the taxes they pay?

366. Why, and on what conditions, is it proper for the Government to take other private property for public use? Repeat the quotation from the Constitution? Does not the public good often require the use of private property? Could Government be carried on successfully if it had not this power? How is the price to be paid for such property determined?

land for the erection of public buildings, forts, lighthouses, navy yards, railroads, or canals, all whereof are a greater good to a greater number of people than the land is to its owner. And, in case of war, an army in need of supplies will take the horses, wagons, and crops of the farmer, or goods of the merchant. **In all such cases, what is wanted by the many** (represented by the Government) **must often be taken from the few. But if it were taken without paying the just value thereof, then the few would be oppressed by the many, and great injustice would result.** For instance: if the country be invaded, it benefits all the citizens alike to have the enemy beaten. All therefore should pay in proportion to their property for the expense of defending the country. If, however, an individual were liable to be deprived of all he has for the public benefit, he would be assessed much more than his share of this expense, while the public would escape payment for what is thus applied to its benefit. **Justice and equality therefore require that what the public needs, the Government shall have the right to take, but it must pay a fair compensation for it.** If the owner refuses the price offered by the Government, the latter will take the property, and afterwards pay such amount for it as the verdict of a jury, or the award of commissioners, will pronounce a fair compensation. **In this way only can the Government perform its duty to the people without either oppressing individuals or being defrauded by them.** For it often happens that the Government is the only purchaser for a piece of land so situated as to be indispensable for a fort, a lighthouse, or a road, and yet worthless for any other purpose, but for which the owner demands an extortionate price; or in case of

emergency, the owners of articles needed for the supply of troops might refuse to furnish them except at many times their value. Thus the many would be taxed for the benefit of a few, and the powers and purposes of Government seriously crippled or embarrassed by individual greed.

Private property must therefore be yielded up to Government, when the public good requires it, but the owner thereof must be compensated in the fair value of such property.

Part III.

LECTURES ON THE DUTIES OF THE AMERICAN CITIZEN.

PART III.

OF THE DUTIES OF THE AMERICAN CITIZEN.

LECTURE I.

EARNING A LIVING.

367. We have hitherto sketched the outlines of many of the peculiar ideas which animate the American system of government. The list of topics is not complete, nor can it be made so without far exceeding the limits we have contemplated. Those who desire to know more may follow up this study through many volumes of history, political science and law, and then perceive that there is still much to be learned. We hope, however, that enough has been shown in this little work to excite the young citizen to push forward to a higher plane of knowledge: enough to suggest to all readers the grave responsibilities they sustain as voters under the American system. **For it is upon the personal character of the citizens that the whole political and legal edifice rests.** If the public are corrupt, so will the Government be. If the people are careless of their public duties, knaves (or fools, the tools of knaves) will surely control the public destinies. If the people lose the sense of justice, the bench will no longer administer it.

If they become fond of military glory, the shock of arms and cries of the wounded will soon drown the voice of industry. If they patronize a flagitious press, the press will demoralize them in turn. If they cease the practice of Christian charity, strife and proscription will soon displace peace and good will among men. **All these evils, or others of similar nature, have from time immemorial overtaken those nations whose people, enervated by luxury or intoxicated by prosperity, have given the reins to their individual passions, and thus dry-rotted the virtue of society.**

368. It is a maxim in natural philosophy that there is no particle of matter, however small, but it affects every other body of matter in the universe, however large. So it is in the American commonwealth; in which there is no person, however humble, who does not influence in some degree the entire community. Yet no one person in a republic is responsible for the acts of all: he must answer only for his own. Can you not see at once, that **if every citizen always acted under the sense of personal responsibility, the acts of the public would necessarily be reasonable and just?**

369. We come now to consider **what principles should actuate each individual, in so regulating his own conduct that he may be worthy of the exalted name of an American.** To you, young man, we especially address this discussion; for in a few years youth will become manhood, **and upon you individually, and on no one else, will devolve your share of the destinies of this great nation.**

THE DIGNITY OF LABOR.

370. You have heard the expression, "the dignity of labor," but you have probably not realized the meaning

of it. If your parents are poor, and have been obliged to work on a farm, or in a factory, store or shop, for wages so low that they could hardly feed you; surrounded by ignorant, perhaps vicious, fellow-laborers; you have doubtless thought hardly of their lot, and wondered what the politicians meant who came for votes, and talked of the **dignity** of labor. And if you are the child of wealth, accustomed to look down upon menials and mechanics; to prize a soft hand and fine clothes as the marks of the "gentleman," you have learned to despise labor as something beneath the level of your standing in society. But both these notions are fatal errors, relics of monarchical traditions—false in fact, dangerous in their tendencies, and totally opposed to the American idea.

371. The American doctrine is that **all labor is honorable**—labor of the hand as well as of the head. It is only with labor of some kind that man is able to pay the world for his living. Every one must somehow get food, clothing and shelter, or he cannot live. **But he can do this only in one of two ways: either he must provide for his own wants, or some one else must do it for him.** If the latter, then the recipient of such favors, having little or nothing to do, is not only a burden upon whoever supports him, but is a useless member of society. His faculties rust for want of use; his passions take possession of him, for he must needs amuse himself; idleness breeds vice; vice leads to crime; and by and by the State will very likely be charged with his support as a vagrant, a drunkard, a gambler, or a criminal.

> "Satan finds some mischief still
> For idle hands to do."

On the other hand, whoever maintains in idleness a

person able to support himself, is burdened with more than his share of responsibility. His rights are invaded, for the other does not so enjoy his liberty as to permit his father or friend to do the same. And if it be the State that is so burdened in supporting paupers and convicts, then the cost of their maintenance must be laid, in taxes, upon the shoulders of the laboring members of the community; who must thus divide their earnings with those who have no personal claim upon them.

372. **But if the citizen** (having no inherited wealth), **depends upon himself to pay his way, he must convert the sweat of his brow or the toil of his brain into some article valuable to other men, in exchange for which his living, and generally more, will be furnished him; and what results from this process?**

A. **The earth is made to yield abundantly, to supply the wants of man.** Millions of civilized people are supported by the cultivation of the same lands that in a natural state would feed only a few savages.

B. **The powers of men are developed,** for it is a law of human nature that these powers can become strong **only by use.** The more you do, the more you become able to do. The weak muscles of the city fop would be exhausted by a few moments of the labor which the hard-handed farmer or wood-chopper easily performs day after day. The trained thought of the lawyer makes light of many a mental task which to the uneducated is wholly impossible. **"Practice makes perfect."**

C. **Universal occupation creates universal happiness and virtue.** There is no misery like long continued idleness. Busy people have no time for vice. "The consciousness of a well-spent life makes old age pleasant."

D. **Industry of one kind creates another.** Thus, agriculture creates manufactures; manufactures stimulate the mechanic arts; both of these require commerce, which binds all nations in peaceful communication with each other.

E. **The habit of self-support creates self-reliance, self-respect, self-restraint, prudence and judgment.** Direct contact with the laws of nature—the result of all work—makes men thoughtful. Habits of thought continually extend the circle of knowledge. Dealing with other men in the transactions of business sharpens the observation, and stimulates the ambition to make the best use of all opportunities.

373. **Now all self-supporting men and women are laborers.** It matters not what kind of labor they perform, so long as each serves the community to the best of his or her ability, at least to the extent of earning the necessaries of their own lives. Paul did not discriminate against menial or mechanical labor when he wrote to the Thessalonians: "That ye study to be quiet, *and to do your own business, and to work with your own hands,* as we commanded you: *that ye may walk honestly toward them that are without, and that ye may have lack of nothing.*"* Nor did he fail to set an example of industry, of which he reminded them when he said, that "Neither did we eat any man's bread for naught, *but wrought with labor and travail night and day, that we might not be chargeable to any of you.*"†

374. Do you now ask: **Where is the dignity of labor?** Is there no dignity in that wonderful industry that has cleared our lands of their boundless forests, and

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*I Thess. iv: 11, 12

†II Thess. iii: 8. (Paul was a tent-maker by trade.)

supplanted the straggling Indians of three centuries ago with forty millions of civilized beings? Is there no dignity in the genius that invented the cotton-gin, the steamboat, the telegraph, the monitor, the reaping machine, and has filled the patent office with more than a hundred thousand other inventions in less than a third of a century? Is there no dignity in the construction of our 52,000 miles of railroads, our 3,200 miles of canals, our 500,000 miles of mail roads, and our tens of thousands of ships and steamers? Is there no dignity in the building of a hundred cities, and of ten thousand villages and towns: in the culture of hundreds of millions of acres of land; in the working of mines; in a thousand factories; in the printing houses, the schools, the churches, the commerce of the United States? **Yet what but labor has wrought all these great works?**

375. **Beware, therefore, how you despise labor.** Rather honor it, and this for its own sake—for its results **to others** as well as for the rewards it brings. Who can tell what it is doing to-day for even the humblest toilers, or to what heights it may raise the lowest of its votaries? Washington began life as a surveyor, Franklin as a printer, Lincoln as a splitter of rails; Henry Clay was a mill boy; Daniel Webster was a farmer; A. T. Stewart was a clerk. Take the great men of the nation at any period, and you will find that all of them learned to work in their youth, nine tenths of them at some menial or mechanical occupation. **If they had not thus been thrown upon their own resources, they never would have developed the powers which afterwards won their way to the highest places in their country's gift.**

376. **Your first duty, therefore, to yourself, your family, and your country, is to show that you**

honor useful work by learning a trade or profession, whereby you can pay to the world an equivalent for your living. And thereafter, never degrade yourself below the level of an American citizen by owing any one the favor of supporting you, or those dependent on you.

LECTURE II.

OBEY THE LAWS.

377. You cannot have understood the foregoing lessons, without perceiving that **except the mass of the people VOLUNTARILY obey the laws, there is no binding force in any of the institutions of the country.** You are one of the mass of the people. Should you as a single individual, or in company with a few others, undertake to break the laws, you will be very likely to suffer for it as a criminal. Should you be one of a large number who conspire against the institutions of the land, you would all be enemies of law and order—or in effect, traitors to American ideas. And should you succeed in enlisting a majority of the people against the Constitution and laws, then you would introduce revolution; and chaos, confusion and bloodshed would take the place of peace, order and prosperity.*

278. It becomes therefore a matter of public necessity that every individual should WILLINGLY obey the laws. It is especially so in America, because here **the laws are based on public opinion,** and we have no standing army, no governing

*Such was the French Revolution of 1789.

class, to compel obedience, if the mass of the people oppose the law. (See Sec. 122.) And in all cases where the law affects individuals, **they are presumed to know what it requires.** If this were otherwise, every criminal could plead his ignorance of the law as an excuse for crime, and he would thus escape punishment. But as very few persons besides attorneys and public officers can find the time to study all the details of the statutes, you can save yourself that labor, and yet keep out of all serious trouble by simply observing toward all the Golden Rule: "Whatsoever ye would that men should do to you, do ye even so to them." **No citizen of a Free Government who observes this rule will ever be arrested on a criminal prosecution, or have any disputes, at least of his own making, involving the rights of others.**

RESPECT FOR RELIGION.

379. It is a natural inference that if there be **one** text in the Bible of so great advantage to human happiness, there must be **many** such in the sacred volume. If the superior civilization of the American Constitutions and laws be based (as we have seen) upon the Bible, then those Constitutions and laws will be best understood when examined in the light of the Bible. Such was the view of the fathers of the republic. Such, in effect, was the advice of the great Washington, when, in his Farewell Address to his countrymen, he used this beautiful language:

"Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism who should labor to subvert these great pillars of human happiness—these firmest props

of the duties of men and citizens. The mere politician, equally with the pious man, ought to respect and cherish them. A volume could not trace all their connections with private and public felicity. Let it simply be asked, Where is the security for property, for reputation, for life, if the sense of religious obligation desert the oaths which are the instruments of investigation in Courts of Justice? And let us with caution indulge the supposition that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principles."*

380. It is your duty therefore to **respect and reverence religion.** Connect yourself and family with some church, if not as members, at least as attendants and contributors. Even though in all things you can adopt no religious faith as your own, you will at least thus discharge a debt every man owes to his children, and assist in the perpetuation of religion among the people, who without it would soon lose the civilization they owe principally to its divine teachings. **The religious feelings of others you will always treat as sacred.**

PERSONAL INDEPENDENCE.

381. In him who realizes the vast fields which political liberty offers to his occupation—whose energies are excited by work—who realizes that he is one of the sovereign people, and has all the rights that are enjoyed by the most favored fellow-citizens—**in such a man there grows a feeling of personal worth and independence which scorns the dictation of other**

*Spencer's United States History, Div. IV, p. 396.

men. No such man needs to pin his faith on another's coat-sleeve, or abjure his own right of opinion at the bidding of those no better than himself. To him the books of nature and of art are as widely open as to any one. His faculties are such as God made them, to whom alone he is accountable for their use or abuse. To him "authority" has no meaning except the command be from Deity, or from the laws of the land which he himself has helped to frame. To him the attempts of his fellow-mortals to clothe themselves with the attributes of the Almighty, and to claim the right to force the wills or the consciences of other men, are but as the ravings of the insane, or the toothless drivel of senility. The American "proves all things," that he may "hold fast that which is good."* He will never consent to make that proof by proxy, or to wear the chains with which arbitrary dogmatism is ever ready to fetter him.

CULTIVATE OPINIONS OF YOUR OWN.

332. As you go through life, you will often move in an atmosphere of lies. False statements of facts, exaggerated rumors, fallacious arguments in books and newspapers, one-sided pleadings by attorneys and stump orators, controversies among many sects of which all cannot be right, errors in the garb of science, mistakes in judgment—these will harass you at every turn. If you follow all who seek to lead you, the weather-cock will not be more variable. In such case you will be a turn-coat in politics, a pervert in theology, "everything by turns, and nothing long." Such a character as this is as unmanly and un-American as it is unnecessary. To be led about at another's will is the badge of indo-

*1 Thess. v: 21.

lence, the mark of a dormant and feeble mind. You are not responsible for the errors of others, though mobs or parties believe them, until you adopt them as your own. Neither are you to be credited with the truths of others, unless they commend themselves as truths to your own reason. **But you ARE responsible for your acts, whether performed merely to please another, or because you consciously choose to act out your own convictions. This responsibility is to God, to your own conscience, to your family, your friends, and your country.** Why should you betray all these by the cowardly surrender of your right of free opinion to those who would use you for their own purposes?

Personal independence of thought and character is the most striking characteristic of the true American citizen. Be sure you are right before you act: you will not then have to yield to others the credit due to your own good sense, nor be liable to the charge of vacillation or subserviency.

NEVER NEGLECT TO VOTE.

383. As the law is designed for the punishment of evil men, while good men may live without being conscious of its existence, so knaves are continually trying to get possession of the Government, which is apt to be neglected by those who neither fear its power, nor covet its offices. To such an extent has this evil grown in our country, that the phrase "the filthy pool of politics" has become a popular by-word, expressing the idea that to take an active part in political affairs is to throw aside respectability. No greater misfortune could have befallen our institutions than such a conviction in the public mind. What! Shall our law-makers be chosen

only from among the law-breakers? Shall the defense of our rights be entrusted to ignorance and vice? Shall criminals be sent to the Capital instead of the State Prison? Shall only sharpers and blacklegs select our candidates for office; thieves and bullies control the ballot-box; corrupt partisans sell or pervert justice in the Courts? Shall the jury be packed with perjurers; the Executive join hands with plunderers; and defaulters revel in the public spoils?

384. **That such abuses of our system do occasionally show themselves, is due to the fact that the best citizens neglect to take part in political conventions, to attend the primaries, and vote at elections. Let not this political CRIME be laid to your charge.** See that you attend every meeting, convention and election where your voice or your vote may help to turn the scale in favor of good men and sound principles. Let not the combinations of self-seeking politicians succeed. Expose their villany and double dealing. Do your utmost to secure the nomination and election of trustworthy candidates for every office. **Let it not be said that for want of your vote the worst ticket was triumphant, or the wrong resolution adopted.** Liberty cannot be preserved merely by the written law. Constitutions are not self-executing. They are like ships: no matter how strong and well built, they are of no use without a competent crew. And as a drunken or unskillful ship's company, though shipped for only the shortest voyage, will wreck the finest vessel; so will ambitious and corrupt public officers make speedy destruction of the liberties of the nation. Never forget in all your public conduct that "**Eternal vigilance is the price of liberty.**"

LECTURE III.

THE OFFICE SHOULD SEEK THE MAN, AND NOT THE MAN THE OFFICE.

385. In Sec. 200, you may recall this passage: "*We have the whole community from which to select our office-holders; consequently, it must be the fault of the people themselves if any but the best men are selected for office.*"

Now, who are the best men to be trusted with office? **Who but those who are naturally and socially prominent by reason of their talents, education, patriotism, public spirit, correct business principles, good habits, and experience in public and private affairs?** You will find few men who possess all these good qualities, but there are always enough of them to fill the offices in any town, city or State. **When you find a man whom you can trust in your own private business, THAT is the man who can be trusted with public interests.** In the choice of Judges you will also, of course, select some one learned in the law. In selecting Legislators, the same principle should apply; for you might as well go to a carpenter to make you a pair of boots, as to expect anything but mischievous legislation from men totally ignorant of the work of law-making. And in filling all offices, **nominating conventions should seek the best man for each public employment,** asking concerning him only three questions: **Is he honest? Is he capable? Is he the best man for the place?**

386. **But when you observe any individual manœuvering to carry a nomination or election in his own favor, especially by the use of money or promises, ALWAYS VOTE AGAINST HIM!** Why does such a man seek office? **Is it to make a living?**

No man who cannot earn a living out of office is fit to be trusted in it. **Is it from love of power?** The world is full of people who love power for its own sake, but these are the very persons who cannot be trusted with the liberties of republicans. America wants servants, not masters, in her public places. **Is it for the honor of an election?** There is no honor in forcing one's self into office. **Such manner of obtaining it is always at the expense of the honor with which the officer might otherwise be regarded.** The Senator who buys his seat commands no respect from the people. **Is it from love of notoriety?** The vain fellows who are the slaves to this failing never become celebrated. Their brains are too light for the work which alone earns enduring fame.

387. If none of these motives are attributable to the office-seeker, there can remain but one other, and this the worst in the catalogue. **His object must be to make money at the expense of the people—by the sale of his official services. Never vote for such a candidate under any possible circumstances! When you are willing to rely on the word of a perjurer, to trust a traitor, to employ a thief as your cashier, or a burglar as your private watchman, then it will be time enough to trust the public interests to the care of the corrupt office-seeker!**

388. **Whoever, therefor, nominates himself to an office of trust or profit, especially if he be apparently determined to succeed by fair means or foul, and is assisted by men of questionable reputation, should invariably be voted down by all high-minded citizens. The motives of such a candidate must always be unworthy or corrupt.** Honest, patriotic men never force themselves before the public.

These wait until the public calls for them. The fathers of our country did not pack conventions, bribe delegations, or buy the press to secure their own elections. **They waited till the office sought the man.** When we peruse the illustrious names in our early history, can we not recognize the kind of men the offices sought! Let it be the duty of your generation to prove the republic still superior to monarchy, by always seeking out and promoting such citizens as the nation may justly delight to honor. *Remember that the offices under our form of government were not created to gratify the ambition or rapacity of individuals. They were designed for the employment of the best talent obtainable for the service of the sovereign people. When the interests of the office-holders become paramount to those of the public, then republicanism must be acknowledged a failure.*

JURY DUTY.

389. You will occasionally be called on as a citizen to serve on the jury, and when summoned you will be very apt to find it inconvenient to attend. You will often begrudge the loss of time and absence from your business which this duty demands at your hands, and you will therefore get excused from it if you possibly can. But how will this disposition on your part affect the administration of justice? It is the good citizens, not bad ones, who are always busy. Suppose all the good men were to be released from the jury on such grounds, does it not follow either that the trial by jury must be abolished, or else that the idle, the dissolute, who may be the friends or even partners of indicted criminals, or of corrupt litigants, will find their way to the jury box, there to acquit the guilty, or sell their votes to the highest bidder? Yet what other result can follow the

general reluctance on the part of the best citizens to serve their country as jurors?

390. Never shirk your duty when called to aid in administering the law, as a grand or trial juror. Apart from the solemn duty you will thus render to your country, you will find the service more than compensated by the instruction you will derive from it. For it will make you familiar with the forms of justice, the rights of persons, and of property, with the civil and criminal law, and the law of evidence. To study human natnre in the Court room is always interesting. And jury duty is excellent discipline for the mind, for it cultivates the reason and helps to form habits of discrimination between truth and falsehood, which elsewhere will serve you in good stead.

HOME.

391. Home! the abode of the highest earthly bliss, the nursery of domestic virtue, the ever-flowing fountain of love, the beginning of our existence, the point of contact between successive generations—how sacred the associations which cling around it in every Anglo-Saxon breast! How do we all revere the self-denying father and toiling mother who brought us into being, tended our childhood, formed our earliest ideas; fed, clothed and sheltered us, during the dependent years of youth; advised us unselfishly, as only parents can, in our first essays to walk alone the slippery paths of life! What love and companionship so soothing as that of a wife; what friendship so strong as that of brothers and sisters; what enjoyment so pure as that of a father and mother caressed by their own affectionate children! Will you not perform your part in perpetuating the great American idea of **Home**?

392. Or will you neglect your duty as a man and a citizen, by selfishly remaining single, preferring the mean, isolated gratification of avarice to the highest happiness vouchsafed to man? Or if you marry, can you expect to realize the ideal domestic life in crowded hotels and boarding houses—where fashion supplants nature; where the wife must substitute idleness, extravagance and folly for the industry and economy of her own domicile; where the husband must encounter the temptations of luxurious dissipation; and where children are not only denied their rights to liberty and health, but are merely a nuisance to the artificial society that deems itself afflicted by their presence?

393. Such was not the idea of those old Puritans, Huguenots and Quakers, who, with their noble families of sturdy sons and thrifty daughters, laid the foundations of this great republic. **Nor will the men and women of your generation hand down our institutions in their purity to posterity, unless they preserve from desecration the sacred idea of home.**

Live therefore in your own house. Protect the privacy of your family. Regard the comfort, beauty and attractiveness of your dwelling as objects worthy of your careful attention, for to these your children will look back in after life as upon the bright colors of the sunset cloud. Prove yourself a good husband and father. **Exert your every energy in the education of your children. See that they thoroughly understand and love the system of American ideas.** And rest assured that when old age creeps over your declining years, the remembrance of duty rightly performed to those who are to come after you, will add more to your peace of mind than every other gift this world has power to bestow.

NOTES.—"Lo, children are an heritage and gift that cometh of the Lord. Like as the arrows in the hand of the giant, even so are the young children. Happy is the man that hath his quiver full of them; they shall not be ashamed when they speak with their enemies in the gate."—Psalm cxxvii: 4–6.

LECTURE IV.

THE UNIVERSAL BROTHERHOOD OF MAN.

394. "God, that made the world and all things therein, hath made of one blood all nations of men for to dwell on all the face of the earth."*

You have gathered from the lessons of this book that mankind have always been prone to wars and persecutions. Divided into many nations, races, and religions, each point of difference has been made the subject of bloody debate. Feuds between clans and faiths have been handed down from father to son; so that even yet the smouldering embers of ancient wars are ever ready to kindle new conflagrations among the descendants of ancient foes. Thus the Mohammedan hates the Christian; the Russian detests the Turk; the Caucasian races despise the Indian, the Negro, and the Mongolian. There is a rancorous feeling between the French and Germans; between the English and the Irish; between the Protestant and the Catholic; between the Greek and Latin churches; between the Jew and Gentile; and between various Protestant sects. What are all these hereditary spites but remnants of barbarism, or the outgrowth of depraved prejudice? Shall it be said that the Christian civilization of the United States does not rise above these

*Acts xvii: 24, 26.

foolish and wicked old-world notions? Can it be that all men are invited to enjoy the blessings of civil liberty in this "land of the free;" that to all men who profess attachment to our Constitution the ballot is entrusted, irrespective of birth or of faith; that the law protects all, educates all without distinctions of any kind; and yet no higher morality than that of Europe or Asia inspires our ideas?

395. You have studied the foregoing lessons to little use, if you cannot free your mind from all prejudices of class, faith, color, or nationality. **How dare you discriminate, where God does not,** or deny the rights which His laws, re-enacted in American institutions, have guaranteed alike to every human being? There may be among us those who have not enjoyed your advantages of free education—the slaves of tyranny, of ignorance and vice. **But where did you acquire the right to blame such people for the accidents of their birth and early training?** Had you been so born and trained would you be any more advanced than they? Have they not by nature the same reason and understanding, the same passions and feelings, the same body and mind, that you have? **How know you but in their hands, American advantages would have produced even higher results than in yours?** How know you what American education will do for their children?

296. *Commiserate then the failings and misfortunes of others. Relieve their sufferings. Enlighten their minds. But despise not any man who equally with yourself was created in the image of God.*

PROGRESS.

397. Given a nation of many millions of freemen, each dependent on his own exertions for all his acquisitions; each trained to think, act, and work for himself, knowing that the law will secure to him alone the fruits of his labors, who can calculate the aggregate of the productions, the inventions, the knowledge of such a nation? The American discards the old notion of building an empire by the conquest of weaker peoples. But in the conquest of **nature**, what excitement in discovery, what happiness in enjoyment, what pleasure in accumulating knowledge and wealth, what growth towards a higher existence than that which is bounded by our perishing bodies! The works of the Creator, the laws of mind and matter, the study of humanity, the development of the earth's riches, the extension of commerce, the annihilation of space—what fields do these open to the possession of all who choose to occupy them! **Hence, the American is a firm believer in human progress.**

398. To the savage a drop of water suggests no ideas beyond a wetting in the rain, or a slaking of thirst; yet let us see with what a world of thought progressive knowledge has invested it.

We may treat it in connection with the laws of **gravitation**, which not only causes the rain to fall, but the earth to keep its orbit, and all the planets to revolve around the sun.

We may think of it in relation to **light**, which the cloud-drops refract into many colors forming the rainbow; or it suggests the lens, through which we bring down the stars to our level, or summon the smallest atoms of creation to our plane of observation.

We may observe the **forms** it takes, such as the sphere, the circle, the ellipse, the parabola, and proceed thence to the study of the higher mathematics.

We may view it through the microscope, and find it a little world in itself, filled with **animals**, occupying their place equally with the whales and the fishes in the order of animated nature.

We may consider it with reference to the laws of **attraction and repulsion**, and of **storms**; we may treat of its thousand **chemical** relations; its **mechanical** properties; its offices in the wonderful **mechanism of living bodies**; its effects in **watering the earth**, so that it shall produce food for man and beast; its **powers in driving mills and machinery**; its uses in the form of **steam**; its terrors when frozen into the **iceberg**; its properties when congealed into **snow**; and its agency in **navigation**.

399. Now all this knowledge connected with one little drop of water did not spring at once into existence. It came **gradually**. Step by step, slowly and cautiously, the mind **progressed** from one point to another, until it reached its present standing place. And the same course has been followed in all other branches of knowledge. In agriculture, manufactures, trade, communication; in law, government, morals, philosophy, mathematics, astronomy, chemistry, music, the mechanic arts, and in religion, men are far more advanced in 1872 than they were in 1850. They knew more in 1850 than in 1800; more then than in 1700, and so on, back to the dark ages. But as our present stage of knowledge, if predicted five hundred years ago, would have been ridiculed as impossible, or attributed to the agency of the devil, such may be **our** present ignorance as to the direction and extent of future attainments. Certainly progress

was never so rapid as in the nineteenth century, and it shows no signs of slacking its speed. After all that has been accomplished, may we not say with the aged discoverer, Sir Isaac Newton: "I feel like a little child playing among the pebbles on the sea-shore. while the great ocean of knowledge lies unexplored beyond me."

400. *Listen not then to those who decry progress, and are continually pointing to the past as to the only source of truth.* Had such false teachers been always able to deceive, but little knowledge, no science, no invention, would now have ameliorated the human condition. No free American would ever have existed; no political liberty would guarantee personal rights. Religions would still persecute, tyranny would yet enslave the masses of mankind. Said Lord Bacon, three hundred years ago, "Antiquity deserveth this reverence, that men should take a stand thereupon, and discover what is the best way, but when the discovery is well taken, **then to make progression.**" And Paul said, "This one thing I do: forgetting those things which are behind, and reaching forth unto those things which are before, **I press toward the mark for the prize of the high calling of God."* What would America be today, if she had not always breathed the atmosphere of progress?**

401. *In your own career, see to it that you exemplify this great American idea. You owe to your posterity not only all you have received from your ancestors, but also all that you may be able to add thereto.*

Every man is debtor to his own trade, profession or calling. Every man owes to his Creator an account of the use he makes of his natural talents. And he owes to his country the development of its natural wealth,

* Phillipians iii: 13.

and the improvement of political, social and moral influences, at least within his own immediate circle. If each citizen of your generation does his whole duty in this direction, the United States fifty years hence will be far in advance of what they are to-day. **But if each man sits down content with what the last generation has done for him, the time-honored mental inactivity of China will soon replace the energy of a free and therefore progressive people.**

LECTURE V.

LOYALTY.

402. *To what can Americans be loyal?*

Can we attach ourselves to persons in power, as the English and Germans do to their Kings and Emperors? This is impossible; for where the persons of the rulers change so frequently as with us, such feeling towards any individual can amount to nothing more than temporary popularity. **The patriotism of an American has no reference to Presidents or Governors.**

403. *Do we love the American nation?* But ours is not a nation in the strict sense which is necessary in order to evoke this feeling. Among our people there are, and probably always will be, a large foreign-born population, who are **commingled** with the natives born and with each other, but not **combined** into one race. A New Englander cannot feel towards an Irishman, a Negro, or a German, as all Irish and Germans feel towards their compatriots. **We lack the oneness of descent, of language, of faith, which binds the old nations together.**

404. *Do we love the land of our birth?* This love is naturally limited to the immediate surroundings of our early youth. The Vermonter may be attached to his own beautiful State for the sake of its scenery, and its associations with the home of his boyhood and his relatives; but he cannot feel the same regard for the distant everglades of Florida, the canebrakes of Louisiana, the great praries of the West, or the forests of Puget Sound. **Our country is too vast to claim attachment to the soil equally from all its citizens.** And **partial** attachments of this nature led large numbers during the late civil war to **limit their patriotism to their respective States,** whereby their idea of loyalty was actually the cause of their rebellion.

405. There remains therefore but one definition of loyalty which commends itself equally to all Americans, whether of the North, the South, the East or West. **Loyalty in the United States is simply intelligent attachment to the system of American ideas.** These, and these only, cause us to differ from other nations and peoples. To these we owe our wonderful growth and national power. To these only are due the institutions which have done more for human happiness than any others under the sun. These alone loom up in the consciousness of every citizen high above all merely local interests, temporary issues, and party strifes. **In these American nationality consists.**

What these ideas are, we have endeavored to explain. You have tested them by the light of reason, traced their harmony with each other, learned to recognize them all as parts of one great whole, each necessary to all the rest, like the several stones in an arch, or parts of a machine. You have seen that their central thought is the ever prominent "**personal liberty of the individ-**

ual;" that to preserve this liberty every one of our institutions is essential in its own place, and must be protected from enemies of American freedom. You have had a glimpse of the duty which will certainly be assigned you in the maintenance of these institutions. How much more important a part may be yours than that of a mere private citizen, only time and your own public-spirited life can determine. But whatever be your future position, **may you never lose sight of the dangers that will befall society if our ideas be badly administered, much more if they be changed.** In principle they cannot be changed, without retrogression from our present stage of civilization. In their details and applications, the work will be partly yours to realize some of the progress which should mark each generation of Americans.

406. Qualify therefore in your mind all the old fashioned notions of loyalty, patriotism and love of country to which our foreign-born citizens have been bred, and which have been elucidated in all the histories of European countries. **No matter where a man was born, nor what his station in his own fatherland; no matter what his faith, his language, or his education; he becomes a loyal American so soon as he understands and LOVES the American system of ideas, preferring them to any other.** Without this knowledge, he is liable to vote away his liberties; without this attachment he may join the ranks of willful traitors. With both, he may join in the great chorus, and sing with Longfellow:

> "Thou, too, sail on, O ship of State!
> Sail on, O Union, strong and great!
> Humanity with all its fears,
> With all the hopes of future years

Is hanging breathless on thy fate !
We know what Master laid thy keel,
What Workmen wrought thy ribs of steel,
Who made each mast, and sail, and rope,
What anvils rang, what hammers beat,
In what a forge, and what a heat,
Were shaped the anchors of thy hope !
Fear not each sudden sound and shock,
'Tis of the wave, and not the rock ;
'Tis but the flapping of the sail,
And not a rent made by the gale !
In spite of rock, and tempest's roar,
In spite of false lights on the shore,
Sail on, nor fear to breast the sea !
Our hearts, our hopes, are all with thee—
Our hearts, our hopes, our prayers and tears,
Our faith, triumphant o'er our fears,
Are all with thee—are all with thee!

MASSACHUSETTS BILL OF RIGHTS, 1780.

PREAMBLE.

The end of the institution, maintenance and administration of government, is to secure the existence of the body politic, to protect it, and to furnish the individuals who compose it with the power of enjoying, in safety and tranquility, their natural rights and the blessings of life; and whenever these great objects are not obtained, the people have a right to alter the government, and to take measures necessary for their safety, prosperity and happiness.

The body politic is formed by a voluntary association of individuals; it is a social compact, by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good. It is the duty of the people, therefore, in framing a Constitution of government, to provide for an equitable mode of making laws, as well as for an impartial interpretation and a faithful execution of them; that every man may, at all times, find his security in them.

We, therefore, the people of Massachusetts, acknowledging, with grateful hearts, the goodness of the great Legislator of the universe, in affording us, in the course of His providence, an opportunity, deliberately and peaceably, without fraud, violence or surprise, of enter-

NOTE.—The Massachusetts Bill of Rights is here inserted, because it is among the most ancient, as well as most exhaustive statement of American principles, to be found in any of the American Constitutions. By the use of the index to this work, the reader will be able to trace and verify nearly all the principles of the Declaration of Rights in the pages of the Manual.

ing into an original, explicit and solemn compact with each other: and of forming a new Constitution of civil government for ourselves and posterity; and devoutly imploring His direction in so interesting a design, do agree upon, ordain and establish the following *Declaration of Rights and Frame of Government*, as the CONSTITUTION of the COMMONWEALTH OF MASSACHUSETTS.

PART THE FIRST.

A DECLARATION OF THE RIGHTS OF THE INHABITANTS OF THE COMMONWEALTH OF MASSACHUSETTS.

ARTICLE I. All men are born free and equal, and have certain natural, essential and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing and protecting property; in fine, that of seeking and obtaining their safety and happiness.

ART. II. It is the right as well as the duty of all men in society, publicly, and at stated seasons, to worship the Supreme Being, the great Creator and Preserver of the universe. And no subject shall be hurt, molested or restrained, in his person, liberty or estate, for worshiping God in the manner and season most agreeable to the dictates of his own conscience; or for his religious profession or sentiments: *Provided*, he doth not disturb the public peace, or obstruct others in their religious worship.

"As the public worship of God, and instructions in piety, religion and morality, promote the happiness and prosperity of a people, and the security of a republican

government; therefore the several religious societies of this Commonwealth, whether corporate or unincorporate, at any meeting legally warned and holden for that purpose, shall ever have the right to elect their pastors or religious teachers, to contract with them for their support, to raise money for erecting and repairing houses for public worship, for the maintenance of religious instruction, and for the payment of necessary expenses; and all persons belonging to any religious society shall be taken and held to be members, until they shall file with the clerk of such society a written notice declaring the dissolution of their membership, and thenceforth shall not be liable for any grant or contract which may be thereafter made or entered into by such society; and all religious sects and denominations, demeaning themselves peaceably, and as good citizens of the Commonwealth, shall be equally under the protection of the law; and no subordination of any one sect or denomination to another shall ever be established by law."*

ART. IV. The people of this Commonwealth have the sole and exclusive right of governing themselves as a free, sovereign and independent State; and do, and forever hereafter shall, exercise and enjoy every power, jurisdiction and right, which is not, or may not hereafter, be by them expressly delegated to the United States of America, in Congress assembled.

ART. V. All power residing originally in the people, and being derived from them, the several magistrates and officers of government, vested with authority, whether legislative, executive or judicial, are their substitutes and agents, and are at all times accountable to them.

ART. VI. No man, nor corporation or association of men, have any other title to obtain advantages, or

* Amendment ratified 1833.

particular and exclusive privileges, distinct from those of the community, than what rises from the consideration of services rendered to the public; and this title being in nature neither hereditary, nor transmissible to children or descendants, or relations by blood, the idea of a man born a magistrate, law-giver or judge, is absurd and unnatural.

ART. VII. Government is instituted for the common good; for the protection, safety, prosperity and happiness of the people; and not for the profit, honor or private interest of any one man, family, or class of men; therefore the people alone have an incontestable, unalienable and indefeasible right to institute government; and to reform, alter or totally change the same, when their protection, safety, prosperity and happiness require it.

ART. VIII. In order to prevent those who are vested with authority from becoming oppressors, the people have a right, at such periods and in such manner as they shall establish by their frame of government, to cause their public officers to return to private life; and to fill up vacant places by certain and regular elections and appointments.

ART. IX. All elections ought to be free; and all the inhabitants of this Commonwealth, having such qualifications as they shall establish by their frame of government, have an equal right to elect officers, and to be elected, for public employments.

ART. X. Each individual of the society has a right to be protected by it in the enjoyment of his life, liberty and property, according to standing laws. He is obliged, consequently, to contribute his share to the expense of this protection; to give his personal service, or an equivalent, when necessary; but no part of the property of any individual can, with justice, be taken from him,

or applied to public uses, without his own consent, or that of the representative body of the people. In fine, the people of this Commonwealth are not controllable by any other laws than those to which their constitutional representative body have given their consent. And whenever the public exigencies require that the property of any individual should be appropriated to public uses, he shall receive a reasonable compensation therefor.

ART. XI. Every subject of the Commonwealth ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property or character. He ought to obtain right and justice freely, and without being obliged to purchase it; completely, and without any denial; promptly, and without delay, conformably to the laws.

ART. XII. No subject shall be held to answer for any crimes or offense until the same is fully and plainly, substantially and formally, described to him; or be compelled to accuse, or furnish evidence against himself; and every subject shall have a right to produce all proofs that may be favorable to him; to meet the witnesses against him face to face, and to be fully heard in his defense, by himself, or his counsel, at his election. And no subject shall be arrested, imprisoned, despoiled or deprived of his property, immunities or privileges, put out of the protection of the law, exiled or deprived of his life, liberty or estate, but by the judgment of his peers, or the law of the land.

And the Legislature shall not make any law that shall subject any person to a capital or infamous punishment, excepting for the government of the army and navy, without trial by jury.

ART. XIII. In criminal prosecutions, the verification of facts, in the vicinity where they happen, is one of the

greatest securities of the life, liberty and property of the citizen.

ART. XIV. Every subject has a right to be secure from all unreasonable searches and seizures of his person, his houses, his papers, and all his possessions. All warrants, therefore, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation; and if the order in the warrant to a civil officer, to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or objects of search, arrest or seizure; and no warrant ought to be issued but in cases, and with the formalities prescribed by the laws.

ART. XV. In all controversies concerning property, and in all suits between two or more persons, except in cases in which it has heretofore been other ways used and practiced, the parties have a right to a trial by jury; and this method of procedure shall be held sacred, unless, in causes arising on the high seas, and such as relate to mariner's wages, the Legislature shall hereafter find it necessary to alter it.

ART. XVI. The liberty of the press is essential to the security of freedom in a State; it ought not, therefore, to be restrained in this Commonwealth.

ART. XVII. The people have a right to keep and to bear arms for the common defense. And as, in time of peace, armies are dangerous to liberty, they ought not to be maintained without the consent of the Legislature; and the military power shall always be held in exact subordination to the civil authority, and be governed by it.

ART. XVIII. A frequent recurrence to the fundamental principles of the Constitution, and a constant adherence

to those of piety, justice, moderation, temperance, industry and frugality, are absolutely necessary to preserve the advantages of liberty, and to maintain a free government. The people ought, consequently, to have a particular attention to all those principles, in the choice of their officers and Representatives; and they have a right to require of their lawgivers and magistrates, an exact and constant observance of them, in the formation and execution of the laws necessary for the good administration of the Commonwealth.

ART. XIX. The people have a right, in an orderly and peaceable manner, to assemble to consult upon the common good; give instructions to their Representatives, and to request of the legislative body, by the way of addresses, petitions or remonstrances, redress of the wrongs done them, and of the grievances they suffer.

ART. XX. The power of suspending the laws, or the execution of the laws, ought never to be exercised but by the Legislature, or by authority derived from it, to be exercised in such particular cases only as the Legislature shall expressly provide for.

ART. XXI. The freedom of deliberation, speech and debate, in either House of the Legislature, is so essential to the rights of the people, that it cannot be the foundation of any accusation or prosecution, action or complaint, in any other Court or place whatsoever.

ART. XXII. The Legislature ought frequently to assemble for the redress of grievances, for correcting, strengthening and confirming the laws, and for making new laws, as the common good may require.

ART. XXXIII. No subsidy, charge, tax, impost or duties, ought to be established, fixed, laid or levied, under any pretext whatsoever, without the consent of the people, or their Representatives in the Legislature.

ART. XXIV. Laws made to punish actions done before the existence of such laws, and which have not been declared crimes by preceding laws, are unjust, oppressive and inconsistent with the fundamental principles of a free government.

ART. XXV. No subject ought, in any case, or in any time, to be declared guilty of treason or felony by the Legislature.

ART. XXVI. No Magistrate or Court of law shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual punishments.

ART. XXVII. In time of peace, no soldier ought to be quartered in any house without the consent of the owner; and in time of war, such quarters ought not to be made but by the civil magistrate, in a manner ordained by the Legislature.

ART. XXVIII. No person can in any case be subjected to law-martial, or to any penalties or pains, by virtue of that law, except those employed in the army or navy, and except the militia in actual service, but by authority of the Legislature.

ART. XXIX. It is essential to the preservation of the rights of every individual, his life, liberty, property and character, that there be an impartial interpretation of the laws and administration of justice. It is the right of every citizen to be tried by judges as free, impartial and independent as the lot of humanity will admit. It is therefore not only the best policy, but for the security of the rights of the people, and of every citizen, that the Judges of the Supreme Judicial Court should hold their offices as long as they behave themselves well, and that they should have honorable salaries ascertained and established by standing laws.

ART. XXX. In the government of this Commonwealth, the legislative department shall never exercise the executive or judicial powers, or either of them; the executive shall never exercise the legislative and judicial powers, or either of them; the judicial shall never exercise the legislative and executive powers, or either of them; to the end it may be a government of laws, and not of men.

CONSTITUTION.

OF THE

UNITED STATES OF AMERICA.

We, the People of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE I.

Section 1.

1. All Legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2.

1. The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

2. No person shall be a Representative who shall not

have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

3. Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

4. When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.

5. The House of Representatives shall choose their Speaker and other officers; and shall have the sole power of impeachment.

Section 3.

1. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legisla-

ture thereof, for six years; and each Senator shall have one vote.

2. Immediately after they shall be assembled in consequence of the first election, they shall be divided, as equally as may be, into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year; of the second class, at the expiration of the fourth year; and of the third class, at expiration of the sixth year; so that one third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the Legislature of any State, the Executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies.

3. No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

4. The Vice-President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

5. The Senate shall choose their other officers, and also a President *pro tempore*, in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

6. The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside; and no person shall be convicted without the concurrence of two thirds of the members present.

7. Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification

to hold and enjoy any office of honor, trust, or profit, under the United States; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment, according to law.

Section 4.

1. The times, places, and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the places of choosing Senators.

2. The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

Section 5.

1. Each House shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties, as each House may provide.

2. Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member.

3. Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either House, on any question, shall, at the desire of one fifth of those present, be entered on the journal.

4. Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

SECTION 6.

1. The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the Treasury of the United States. They shall, in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to, and returning from, the same; and for any speech or debate in either House, they shall not be questioned in any other place.

2. No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person, holding any office under the United States, shall be a member of either House during his continuance in office.

SECTION 7.

1. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments, as on other bills.

2. Every bill, which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States; if he approve, he shall sign it, but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to recon-

sider it. If, after such reconsideration, two thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a law. But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each House, respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

3. Every order, resolution, or vote, to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment), shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be re-passed by two thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

SECTION 8.

The Congress shall have power,

1. To lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defense and general welfare of the United States; but all duties, imposts, and excises, shall be uniform throughout the United States.

2. To borrow money on the credit of the United States.

3. To regulate commerce with foreign nations, and among the several States, and with the Indian tribes.

4. To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies, throughout the United States.

5. To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures.

6. To provide for the punishment of counterfeiting the securities and current coin of the United States.

7. To establish post-offices and post-roads.

8. To promote the progress of science and useful arts, by securing, for limited times, to authors and inventors the exclusive right to their respective writings and discoveries.

9. To constitute tribunals inferior to the Supreme Court.

10. To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations.

11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.

12. To raise and support armies; but no appropriation of money to that use shall be for a longer term than two years.

13. To provide and maintain a navy.

14. To make rules for the government and regulations of the land and naval forces.

15. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions.

16. To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States, respectively, the appointment of the

officers, and the authority of training the militia, according to the discipline prescribed by Congress.

17. To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the Government of the United States, and to exercise like authority over all places, purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings. And,

18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

Section 9.

1. The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight; but a tax or duty may be imposed on such importations, not exceeding ten dollars for each person.

2. The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

3. No bill of attainder or *ex post facto* law shall be passed.

4. No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration, herein before directed to be taken.

5. No tax or duty shall be laid on articles exported from any State. No preference shall be given by any

regulation of commerce or revenue to the ports of one State over those of another; nor shall vessels bound to or from one State be obliged to enter, clear or pay duties in another.

6. No money shall be drawn from the treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

7. No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince or foreign State.

Section 10.

1. No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, or grant any title of nobility.

2. No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the Congress. No State shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State, or with a

foreign power, or engage in war unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

Section 1.

1. The Executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice-President, chosen for the same term, be elected as follows:

2. Each State shall appoint, in such manner as the Legislature thereof may direct, a number of Electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an Elector.

3. The Electors shall meet in their respective States, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each, which list they shall sign and certify, and transmit, sealed, to the seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of Electors appointed; and if there be more than one who have such majority, and have an equal

number of votes, then the House of Representatives shall immediately choose, by ballot, one of them for President; and if no person have a majority, then, from the five highest on the list, the said House shall, in like manner, choose the President. But in choosing the President the votes shall be taken by States, the representation from each State having one vote. A quorum for this purpose shall consist of a member or members from two thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the Electors shall be the Vice-President. But if there should remain two or more who have equal votes, the Senate shall choose from them, by ballot, the Vice-President.

4. The Congress may determine the time of choosing the Electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

5. No person, except a natural-born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

6. In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President, and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

7. The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected; and he shall not receive within that period any other emolument from the United States, or any of them.

8. Before he enter on the execution of his office, he shall take the following oath or affirmation:

9. "I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States."

Section 2.

1. The President shall be commander-in-chief of the army and navy of the United States, and of the militia of the several States, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

2. He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint Ambassadors, other public Ministers, and Consuls, Judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior offi-

cers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

3. The President shall have power to fill all vacancies that may happen, during the recess of the Senate, by granting commissions, which shall expire at the end of their next session.

Section 3.

1. He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper: he shall receive ambassadors and other public ministers: he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

Section 4.

1. The President, Vice-President, and all civil officers of the United States, shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors.

ARTICLE III.

Section 1.

1. The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may, from time to time, ordain and establish. The Judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and

shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

SECTION 2.

1. The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the Laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting Ambassadors, other Public Ministers and Consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State claiming lands under grants of different States; and between a State, or the citizens thereof, and foreign States, citizens or subjects.

2. In all cases affecting Ambassadors, other Public Ministers, and Consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations, as the Congress shall make.

3. The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place, or places, as the Congress may by law have directed.

SECTION 3.

1. Treason against the United States shall consist only in levying war against them, or in adhering to their

enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

2. The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attained.

ARTICLE IV.

Section 1.

1. Full faith and credit shall be given in each State to the public acts, records and judicial proceedings of every other State. And the Congress may, by general laws, prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

Section 2.

1. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

2. A person charged in any State with treason, felony or other crime, who shall flee from justice, and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

3. No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

SECTION 3.

1. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned, as well as of the Congress.

2. The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory, or other property, belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State.

SECTION 4.

1. The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion; and on application of the Legislature, or of the Executive (when the Legislature cannot be convened), against domestic violence.

ARTICLE V.

1. The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the Legislatures of two thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress: *Provided*, that

no amendment, which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

ARTICLE VI.

1. All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States, under this Constitution, as under the Confederation.

2. This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

3. The Senators and Representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound, by oath or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII.

1. The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

AMENDMENTS TO THE CONSTITUTION.

AMENDMENT I.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

AMENDMENT II.

A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

AMENDMENT III.

No soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor in time of war but in a manner to be prescribed by law.

AMENDMENT IV.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

AMENDMENT V.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled, in

any criminal case to be a witness against himself; nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use, without just compensation.

AMENDMENT VI.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law; and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense.

AMENDMENT VII.

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact, tried by a jury, shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

AMENDMENT VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

AMENDMENT IX.

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

AMENDMENT X.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

AMENDMENT XI.

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State.

AMENDMENT XII.

1. The Electors shall meet in their respective States, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President; and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign, and certify, and transmit, sealed, to the seat of the Government of the United States, directed to the President of the Senate; the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two thirds of the States, and a majority of all the States shall be neces-

sary to a choice. And if the House of Representatives shall not choose a President, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in case of the death, or other constitutional disability, of the President.

2. The person having the greatest number of votes as Vice-President shall be the Vice-President, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two thirds of the whole number of Senators; a majority of the whole number, shall be necessary to a choice.

3. But no person constitutionally ineligible to the office of President, shall be eligible to that of Vice-President of the United States.

AMENDMENT XIII.

1. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist in the United States, or any place subject to their jurisdiction.

2. Congress shall have power to enforce this Article by appropriate legislation.

AMENDMENT XIV.

1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of

life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election, for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the Executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

3. No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two thirds of each House, remove such disability.

4. The validity of the public debt of the United States, authorized by law, including debts incurred for the payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But

neither the United States, nor any State, shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this Article.

AMENDMENT XV.

1. The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any State, on account of race, color, or previous condition of servitude.

2. The Congress shall have power to enforce this Article by appropriate legislation.

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RECOMMENDATIONS.

From Rev. L. Hamilton, Pastor First Independent Presbyterian Church, Oakland.

OAKLAND, March 23d, 1872.

REV. H. DURANT, President University California: *Dear Sir*—I have examined the manuscript of Mr. Hopkins' book, concerning which you spoke to me, with some care. To say that I have been pleased with it, would not express my estimate. I fully believe it will prove the most important contribution to our educational literature that has been made in many a year. Its idea is original, its field new. It will, if adopted, open a new branch of education in our schools, than which none is more needful to the youth of our country. The work is thoroughly done. It is methodical in its arrangement, transparently simple in style (as a school book ought to be), and seems to me well nigh exhaustive of the subject. It is no dry skeleton of principles like Duer's "Outlines of the Constitution," or detailed commentary on them like Dr. Young's "Civil Government." While it is quite as systematic as the former, it is much more comprehensive than either, and infinitely better adapted to the tastes and intelligence of youth. It is made to glow with interest. It traces the history of our civil institutions, and makes us realize more vividly what they are, by letting us see out of what they grew, and how they came to be what they are. The contrast between

our Government and those of the old world, which is kept before the reader throughout the work, is an invaluable feature. It gives a broader view of the subject, and greatly stimulates the desire for those historical studies in which the American system finds one of its strongest recommendations. Many will doubtless differ from the author on several points : but I think they will find no cause to complain of a partisan presentation of his views. The partisan—the author's individuality—are lost sight of in his intense enthusiasm for liberty. With *that* the whole book is throbbingly alive. It must kindle a like spirit in the scholar who studies it. It is a timely book. Our country needs it. Nothing that I have ever seen is so well adapted to kindle an earnest love in the young for our system of government, or to give them a more intelligent appreciation of both its blessings and the dangers that threaten its stability.

I hope it will receive the *imprimatur* not only of the Faculty and Regents of our own State University, but of every like body of men, and of every State Board of Education in our country. I trust that it may soon be doing its good work in our schools of every grade, and become the *vade mecum* of every student.

Truly yours,

L. HAMILTON,

Pastor First Independent Presb. Church, Oakland.

From Hon. Emory Washbourn, Professor of Law in the Law School of Harvard University.

CAMBRIDGE, Sept. 20th, 1872.

C. T. HOPKINS, ESQ.—I have not had time to complete my examination of your "Manual of American Ideas" beyond its purpose and plan ; but these are so admirable that the

public may confidently believe that, one who knows so well how to undertake can hardly fail to execute his work.

That the want it proposes to supply is sadly felt in our country, every one who has mingled to any extent with the people must have often had occasion to remark. It has been little better than a solecism to speak of our capacity for self-government, when so little opportunity is offered to learn in what Government consists; while there is a manifest absurdity in calling upon a citizen to reverence and admire the one under which he lives, without his being able to judge of it understandingly, either as considered in itself, or by comparing it with others. To make a love of country a sentiment in any one, it must be early planted and assiduously cultivated. Its elements must be taught at the fireside and in the schools. The boy or young man must be made to see and understand *why* he should be ready to stand by the laws which guard his person and his property, and the country in whose welfare his own is so completely identified. And yet civil politics is a thing hardly known in our schools. The fact that there are ideas to be inculcated, which are American in their character, has to be learned, if at all, in maturer life.

One circumstance must be noted in this connection—this is, the immense body of *un-American* thought introduced into every section of the country by immigration. Something must be opposed to the strong feeling of nationality which the immigrants bring with them. It is through their children that this foreign element is to become Americanized. The schools must do this work, and in its execution, they need sound, wise, earnest treatises upon the subjects you discuss in your book, adapted to the capacities of both teacher and pupil. Such a work as yours ought to command the favor and best wishes of every right-minded citizen.

Very respectfully,

EMORY WASHBOURN.

From Dr. William H. Muller, M. D.

ZELIENOPLE, Butler Co., Pennsylvania.

Dear Sir:—I have read your "Manual of American Ideas" from title page to index, and I can hardly find words to express my high appreciation of it. It is a *perfect gem* in its way; so concise, so clear, so methodical, so pointed, such a thorough and perfect adaptation of method, style, language and facts to the object to be obtained. You have *focalized* the light scattered through the literature of politics as to American Ideas, in a brilliant little volume, which a child can understand, and by which ninety-nine out of an hundred adults will find themselves instructed. It ought to have an immense demand, and if it does not, that very want of appreciation by the public would be an argument to show the need of such a work. But I think it is impossible that it will not be eagerly sought after. It should be scattered broadcast over the country, and be a household book in every family. Your book is so unique that it occupies a niche of its own, which I think no other work on the same subject *can* occupy; because a better book for attaining the same end *cannot be written*, and therefore it bids fair to grow in popular demand and to descend to late generations. I think there will and can be but one sentiment in the press of the whole country as to the merits of your book when known, and that one of unhesitating approval. Again let me congratulate you upon your achievement.

Most truly yours,

WM. H. MULLER.

From Ex-Governor Haight, of California.

SAN FRANCISCO, April 6th, 1872.

C. T. HOPKINS, ESQ.: *Dear Sir*—I have read with interest

your work upon the principles of free government, designed for the use of schools and academies in the United States.

I have long thought it very desirable that more attention should be paid to instructing boys and young men in those elementary principles which lie at the foundation of our American system, which constitute its vital spirit, and distinguish it from the political system of the Old World.

This want your work is well calculated to supply; and I believe its general use in educational institutions in this country would be of great service in what is certainly one of the most important departments of knowledge. Without some progress in this, there can be no intelligent discharge of the duties of citizenship.

Your statement of political and legal principles is clear and concise, and no boy or young man can study the book without a truer insight into the nature of our institutions, and a more profound appreciation of their priceless value.

I trust it may come into general use in our schools.

Very truly, yours,

H. H. HAIGHT.

From Rev. A. L. Stone, D. D., formerly of Boston, now Pastor of the First Congregational Church, San Francisco.

San Francisco, August 26th, 1872.

It is a marvel, hard to be accounted for, that in our system of educational training, now so ripe and perfected, there has been so long no fit text book in regard to the growth of American institutions, the principles of our free Government, the forms of our Constitutions and Laws, and the controlling ideas of our life and history. Certainly no branch of instruction can be more vital for the children of the Republic, or more closely connected with its prosperity and perpetuity.

This needed and neglected provision seems to me admirably supplied in the work of Mr. Hopkins. It is no dry and meagre compilation; it is a work of original thought, and every page is alive with enthusiasm and interest. The special felicity of the work, in my estimation, is in a department where success is rarest and most difficult, viz.: the simplicity, precision, and perspicuity of its *definitions*. They are brief, pithy, comprehensive, and level to the intellect of juvenile learners.

The work cannot too soon take its place in the curriculum of studies that are to fit the successive generations of American youth for the high trust of self-government.

A. L. STONE.

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